NDPERS BOARD MEETING

Agenda

Bismarck Location:
ND Association of Counties
1661 Capitol Way
Fargo Location:
BCBS, 4510 13th Ave SW

8:30 AM

Time:

September 20, 2007

I. MINUTES

A. August 16, 2007

II. RETIREMENT

- A. Cost of Living Adjustment Information Bryan (Information)
- B. Annual Investment Report Steve Cochrane (Information)
- C. SB 2044-Supplemental Retiree Payment Sparb (Board Action)
- D. On-Site Benefit Counseling Service (OBCS) Kathy (Information)

III. GROUP INSURANCE

- A. HB 1433 Diabetes Program ND Pharmacists Association (Information)
- B. Clinical Pharmacy Information BCBS (Information)
- C. Medicare Blue Rx (Part D) Rates Sparb (Board Action)
- D. SB 2045-Temporary Participation Sharmain & Sparb (Board Action)
- E. Employer Based Wellness & Wellness Benefit Program Rebecca and Kathy (Board Action)
- F. Flu Shots Kathy (Information)
- G. Surplus/Affordability Update Sparb (Information)

IV. DEFERRED COMPENSATION

A. 457 and 401(a) Plans 2nd Quarter 2007 Reports – Bryan (Board Action)

V. LASR

- A. Monthly Update Deb (Information)
- B. Project Charter Sharon and Bryan (Information)
- C. Sagitec Addendum Sparb and Deb (Board Action)
- D. Wechsler Contract Sparb and Deb (Board Action)

VI. MISCELLANEOUS

- A. Final Draft of Administrative Rules Sparb and Deb (Board Action)
- B. Board Planning Meeting Sparb (Board Action)
- C. PERS Benefits Committee Bryan (Information)
- D. PERS Audit Committee Jamie (Information)
- E. SIB Agenda (Information)

VII. FLEX COMP

A. Appeal – Kathy (Board Action)

Any individual requiring an auxiliary aid or service must contact the NDPERS ADA Coordinator at 328-3900, at least 5 business days before the scheduled meeting.



North Dakota Public Employees Retirement System 400 East Broadway, Suite 505 ● Box 1657 Bismarck, North Dakota 58502-1657

Sparb Collins
Executive Director
(701) 328-3900
1-800-803-7377

FAX: (701) 328-3920 • EMAIL: NDPERS-info@nd.gov • www.nd.gov/ndpers

Memorandum

TO:

PERS Board

FROM:

Sparb & Bryan

DATE:

September 20, 2007

SUBJECT:

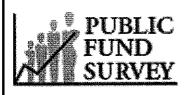
State Retirement System COLA's

Here is a retirement survey done by NCQA. It includes the post retirement increase provisions for most of the state retirement plans. There are 48 state employee plans listed.

The types of increases breakdown into the following:

- 34 Some type of automatic increase. Most set a percentage or a percentage based on the CPI.
- 11 Ad Hoc increase based on legislative approval (similar to past NDPERS increases).
- 3 Increase based on investment performance.

If you have any questions or would like to see any other information, Sparb will be available at the NDPERS Board meeting.



Home About Us User Login Survey Scorecard Contact

member: Bryan Reinhardt

back to survey menu

logout

Post-Retirement Increase Provisions:

- · Click here to switch to Ascending, click here to switch to Descending
- Then click column headings to sort
- Click single 'Plan Name' to view report for selected record
- Click here to Scroll through Plans alpha by State

No.	State	Plan Name	Post-Retirement Increase Provisions
1	AK	Alaska PERS	automatic based on CPI; annuitant must reside in-state to receive the COLA
2	AK	Alaska Teachers	automatic, based on a % of the CPI depending on retiree's age
3	AL	Alabama Teachers	ad hoc as approved by the legislature
4	AL	Alabama ERS	ad hoc as approved by the legislature
5	AR	Arkansas Teachers	automatic, based on CPI, rounded to the nearest one-half of one %, with a 3% maximum for Plan A members and 2% for Plan B; simple!
6	AR	Arkansas PERS	automatic 3% compounded
7	AZ	Phoenix ERS	The Plan provides a permanent, excess earnings COLA and a 13th check, based on investment performance
8	AZ	Arizona SRS	based on excess earnings above 8%, up to 4% annually
9	AZ	Arizona Public Safety Personnel	based on excess earnings, up to four percent
10	CA	San Francisco City & County	ad hoc as approved by the board
11	CA	LA County ERS	automatic based on CPI, up to 2%, plus a component based on investment performance
12	CA	Contra Costa County	automatic, based on CPI, up to 4%
13	CA	San Diego County	automatic based on COLA up to 3%, compounded
14	CA	California Teachers	automatic 2% simple
15	CA	California PERF	automatic based on CPI up to 2%, compounded
16	СО	Colorado State & School	automatic 3.5% compounded
17	со	Denver Employees	
18	со	Colorado Municipal	automatic 3.5% compounded

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19	, co	Denver Schools	automatic 3.25% compounded
20	со	Colorado School	
21	СО	Colorado State	automatic 3.5% compounded
22	СТ	Connecticut SERS	automatic based on 60% of CPI, with a minimum of 2.5% and a max of 6.0%, compounded
23	СТ	Connecticut Teachers	for members who retired before 9/92, automatic, based on CPI, with 3% minimum and 5% max, compounded;
24	DC	DC Police & Fire	automatic based on CPI, up to 3%, compounded
25	DC	DC Teachers	automatic based on CPI, compounded, maximum of 3% for those hired after November 15, 1996
26	DE	Delaware State Employees	ad hoc as approved by the general assembly
27	FL	Florida RS	automatic 3% compounded
28	GA	Georgia Teachers	automatic 1.5% every 6 months as long as CPI increases, compounded
29	GA	Georgia ERS	ad hoc as approved by the legislature
30	HI	Hawaii ERS	automatic 2.5% simple
31	IA	lowa PERS	Non-guaranteed post-retirement payment from a reserve account established from excess investment earnings. Calculation includes factors related to number of yrs retired and a CPI-type multiplier. See Notes below for pre-1990 retirees.
32	ID	Idaho PERS	automatic 1% compounded (as long as CPI rises at least 1%), plus investment-based increase
33	IL	Illinois Universities	automatic 3% compounded
34	IL	Illinois Teachers	automatic 3% compounded
35	IL	Illinois Municipal	automatic 3% simple
36	IL	Illinois SERS	automatic 3% compounded
37	IL	Chicago Teachers	automatic 3% compounded
. 38	IN	Indiana PERF	ad hoc as approved by the legislature
39	IN	Indiana Teachers	ad hoc
40	KS	Kansas PERS	ad hoc as approved by the legislature
41	KY	Kentucky Teachers	automatic 1.5% compounded
42	KY	Kentucky ERS	automatic, tied to CPI, not to exceed 5%, compounded
43	KY	Kentucky County	automatic, tied to CPI, not to exceed 5%, compounded
44	LA	Louisiana SERS	lesser of 2% or CPI, plus up to 1% additional based on investment returns
45	LA	Louisiana Teachers	based on investment return
46	MA	Massachusetts SERS	automatic, based on CPI up to 3% on first \$12,000 of benefit
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47	MA	Massachusetts Teachers	ad hoc as approved by the legislature; based on CPI up to 3% for first \$12,000 of benefit; compounded
48	MD	Maryland PERS	automatic based on CPI, up to 3%, compounded
49	MD	Maryland Teachers	automatic based on CPI, up to 3%, compounded
50	ME	Maine State and Teacher	automatic, based on CPI up to 4%, compounded
51	ME	Maine Local	based on individual employer election
52	MI	Michigan Public Schools	automatic 3% simple
53	МІ	Michigan SERS	automatic 3% simple up to \$300 annually
54	МІ	Michigan Municipal	employers may elect to provide a COLA, on a one-time basis or as an automatic adjustment
55	MN	Minnesota Teachers	automatic based on CPI, compounded, up to 2.5%, plus an increase based on investment performance
56	MN	Minneapolis ERF	two-part COLA includes increases equal to the CPI, compounded, and a component linked to investment performance
57	MN	Duluth Teachers	automatic 2% compounded, plus a share of investment earnings when the portfolio returns exceed 8.5%
58	MN	St. Paul Teachers	automatic 2.0% plus an excess investment earnings component
59	MN	Minnesota PERF	automatic based on CPI, compounded, up to 2.5%, plus a component based on investment return
60	MN	Minnesota State Employees	based on investment performance; COLAs include a cost of living component and an investment component
61	МО	Missouri Teachers	automatic based on CPI, not to exceed 5%, compounded, with a lifetime cap of 80%
62	MO	Missouri State Employees	80% of CPI up to 5% compounded; members hired before 8/28/97 receive a minimum of 4% and a maximum of 5% compounded, up to 65% of original benefit
63	МО	St. Louis School Employees	ad hoc as approved by the board
64	МО	Missouri PEERS	automatic based on CPI, not to exceed 5%, compounded
65	МО	Missouri Local	automatic CPI up to 4% compounded; effective first October after member has been retired 12 months
66	МО	Missouri DOT and Highway Patrol	80% of increase in CPI up to 5%, compounded
67	MS	Mississippi PERS	automatic 3% compounded
68	МТ	Montana PERS	automatic 3% compounded
69	MT	Montana Teachers	automatic 1.5% compounded beginning 3 years after onset of annuity
70	NC	North Carolina Local Government	ad hoc
71	NC	North Carolina Teachers and State Employees	ad hoc
72	ND	North Dakota PERS	ad hoc as approved by the legislature
73	ND	North Dakota Teachers	ad hoc as approved by the legislature
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74	NE	Nebraska Schools	based on CPI, up to 2.5%, compounded	
75	NH	New Hampshire Retirement System	ad hoc as approved by the legislature's fiscal committee	
76	NJ	New Jersey PERS	automatic 60% of CPI, compounded	
77	NJ	New Jersey Teachers	automatic 60% of CPI, compounded	
78	NJ	New Jersey Police & Fire	automatic 60% of CPI, compounded	
79	NM	New Mexico Teachers	One-half of CPI up to 4%, with a 2% minimum; annuitant must be 65 years of age to qualify for a COLA	
80	NM	New Mexico PERF	automatic 3% compounded	
81	NV	Nevada Police Officer and Firefighter	after 3 years of receiving benefits, auto2% annually, rising gradually to 5% annually, compounded, after 14 years of benefits	
82	NV	Nevada Regular Employees	after 3 years of receiving benefits, auto 2% annually, rising gradually to 5% annually, compounded, after 14 years of benefits	
83	NY	New York City ERS		
84	NY	New York City Teachers	automatic based on CPI, up to 3%, compounded	
85	NY	New York State Teachers	automatic, equal to half the CPI, with a minimum of 1% and a maximum of 3%, compounded, applied to the first \$18,000 in annual benefits	
86	NY	NY State & Local ERS	automatic based on half the CPI applied to first \$18,000, compounded	
87	NY	NY State & Local Police & Fire	automatic, equal to one-half the CPI, compounded	
88	ОН	Ohio Teachers	automatic 3% simple	
89	ОН	Ohío Police & Fire		
90	ОН	Ohio PERS	automatic 3%, simple	
91	ОН	Ohio School Employees	automatic 3% compounded	
92	ок	Oklahoma Teachers	ad hoc as approved by the legislature	
93	ок	Oklahoma PERS	ad hoc as approved by the legislature	
94	OR	Oregon PERS	based on CPI, compounded, up to 2%	
95	PA	Pennsylvania State ERS	ad hoc as approved by the general assembly	
96	PA	Pennsylvania School Employees	ad hoc as approved by the general assembly	
97	RI	Rhode Island ERS	based on CPI, up to 3%, compounded; effective after 3rd anniversary of retirement	
98	RI	Rhode Island Municipal	automatic 3% compounded	
99	sc	South Carolina Police	based on funding status and other criteria, subject to approval of the state budget board	
100	sc	South Carolina RS	based on funding status and other criteria, subject to approval o the state budget board	
101	SD	South Dakota PERS	automatic 3.1% compounded	
		TN State and		

102	TN	Teachers	automatic based on CPI, up to 3% compounded
103	TN	TN Political Subdivisions	participating employers may choose from 1 of 3 options: a) no COLA; b) automatic based on CPI, up to 3%, compounded, or c) same as b), except simple
104	TX	Texas County & District	ad hoc, approved by individual employers
105	TX	Texas Teachers	ad hoc, as approved by the legislature
106	TX	Texas LECOS	ad hoc as approved by the legislature
107	TX	Texas ERS	ad hoc as approved by the legislature
108	TX	Texas Municipal	ad hoc, by ER, who may choose from 30%, 50%, or 70% of CPI
109	TX	City of Austin ERS	ad hoc as approved by the board
110	TX	Houston Firefighters	automatic 3% compounded
111	UT	Utah Noncontributory	automatic based on CPI up to 3% simple
112	VA	Fairfax County Schools	automatic 3% compounded
113	VA	Virginia Retirement System	automatic based on CPI up to 5%
114	VΤ	Vermont State Employees	automatic based on CPI, up to 5%, compounded
115	VT	Vermont Teachers	automatic based on one-half of CPI, up to 5%, compounded
116	WA	Washington School Employees Plan 2/3	
117	WA	Washington LEOFF Plan 2	automatic based on CPI, up to 3% compounded
118	WA	Washington LEOFF Plan 1	
119	WA	Washington Teachers Plan 2/3	automatic based on CPI up to 3%, compounded
120	WA	Washington Teachers Plan 1	
121	WA	Washington PERS 2/3	based on CPI, up to 3%, compounded
122	WA	Washington PERS 1	automatic, based on CPI
123	WI	Wisconsin Retirement System	based on investment returns
124	WV	West Virginia PERS	
125	WV	West Virginia Teachers	
126	WY	Wyoming Public Employees	Automatic, lesser of 3% or the increase in the cost of living as determined by the board, effective each July 1 after two full years of retirement



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Memorandum

TO: NDPERS Board

FROM: Sparb

DATE: September 12, 2007

SUBJECT: Annual Defined Benefit Investment Review

The Statement of Investment Objectives and Policies, adopted by the Board, states the following:

"Upon implementation of this policy and the above asset allocation, the SIB must meet with the Public Employees Retirement Board. The purpose of this meeting is to review the procedures and policies established by the SIB relating to Section II-Delegation of Authority. Also, the meeting must review the application of this policy to the funds established by the SIB. After the implementation meeting, the SIB and the Public Employees Retirement Board must meet at least annually and conduct a similar review. The annual meeting must include a review of the progress of the fund and its asset allocation strategy."

Pursuant to the above, Steve Cochrane and Connie Flanagan from RIO will be at the upcoming board meeting. The purpose of the meeting is two fold:

- Review the progress of the fund and its asset allocation, and
- Meet with SIB concerning what policies and procedures they have adopted pursuant to Section II- Delegation of Authority of our investment policies.

Also, attached for your information, is a copy of our *Statement of Investment Goals, Objectives and Policies* and the performance report for our fund as of March.

FY 2007

NDSIB Investment Program NDPERS Annual Review September 20, 2007

Annual Review

North Dakota Century Code Chapter 54-52-14.1. Public Employees Retirement System

Investment of the fund is under the supervision of the state investment board in accordance with chapter 21-10.

North Dakota Century Code Chapter 21-10-02. State Investment Board

The board is charged with the investment of the funds enumerated in section 21-10-06. (Yes, PERS is one.) It shall approve general types of securities for investment by these funds and set policies and procedures... (for these funds)...Representatives of these funds...may make recommendations to the board in regard to investments.

North Dakota Century Code Chapter 21-10-02.1



"write guidelines for investments!"

NDPERS Statement of Investment Goals, Objectives and Policies

II. DELEGATION OF AUTHORITY Management responsibility for the investment program not assigned to the North Dakota State Investment Board (SIB) in Chapter 21-10 of the North Dakota Century Code (NDCC) is hereby delegated to the SIB, ...

NDPERS Statement of Investment Goals, Objectives and Policies

Excerpt from the Document, Page 5:

Upon implementation of this policy and the above asset allocation, the SIB must meet with the Public Employee Retirement Board. The purpose of the meeting is to review the procedures and policies established by the SIB relating to Section 3 - Delegation of Authority and to review the application of this policy to the funds established by the SIB. After the initial meeting the SIB and the Public Employee Retirement Board must meet at least annually and conduct a similar review. The annual meeting must also include a review of the progress of the Fund and its asset allocation strategy.

NDPERS Statement of Investment Goals, Objectives and Policies

5. INVESTMENT PERFORMANCE OBJECTIVE

c. Over 10-year and longer periods the fund should match or exceed the expected 9.3% rate of return projected in the asset/liability study without exceeding the expected risk for the period. Expected risk for the period, measured by standard deviation is 10.5%.

Annualized Return and Risk (%) Years ended June 30, 2007

<u>1 Yr 3 Yrs 5 Yrs 10 Yrs</u> **PERS (net %) 18.96 14.98 13.33 8.92**

10-Year Annualized Standard Deviation: 9.93%

	Allocation Comparison (%)			Asset Class Benchmark	Actual Return
	Policy	Actual	Difference	Return %	(Net) %
Large Cap US Stocks	30				
Small Cap US Stocks	10				
International Stocks	10				
Emerging Markets	5				
Alternative Investment	5				
US Fixed Income	24				
High Yield Bonds	5				
International Bonds	5				
Cash Equivalents	1				
Real Estate	5				
TOTAL	100				

	Allocation Comparison (%)			Asset Class Benchmark	Actual Return
	Policy	Actual	Difference	Return %	(Net) %
Large Cap US Stocks	30	30.5			
Small Cap US Stocks	10	10.4			
International Stocks	10	10.5			
Emerging Markets	5	5.8			
Alternative Investment	5	4.4			
US Fixed Income	24	22.3			
High Yield Bonds	5	4.8			
International Bonds	5	4.4			
Cash Equivalents	1	1			
Real Estate	5	5.9			
TOTAL	100				

	Allocation Comparison (%)			Asset Class Benchmark	Actual Return
	Policy	Actual	Difference	Return %	(Net) %
Large Cap US Stocks	30	30.5	0.5		
Small Cap US Stocks	10	10.4	0.4		
International Stocks	10	10.5	0.5		
Emerging Markets	5	5.8	0.8		
Alternative Investment	5	4.4	0.6		
US Fixed Income	24	22.3	1.7		
High Yield Bonds	5	4.8	0.2		
International Bonds	5	4.4	0.6		
Cash Equivalents	1	1	0.0		
Real Estate	5	5.9	0.9		
TOTAL	100				

	Allocation Comparison (%)			Asset Class Benchmark	Actual Return
	Policy	Actual	Difference	Return %	(Net) %
Large Cap US Stocks	<i>30</i>	<i>30.5</i>	0.5	20.59	
Small Cap US Stocks	10	10.4	0.4	16.44	
International Stocks	10	10.5	0.5	26.94	
Emerging Markets	5	5.8	0.8	45.45	
Alternative Investment	5	4.4	0.6	16.83	
US Fixed Income	24	22.3	1.7	6.12	
High Yield Bonds	5	4.8	0.2	11.22	
International Bonds	5	4.4	0.6	2.22	
Cash Equivalents	1	1	0.0	5.21	
Real Estate	5	5.9	0.9	17.24	
TOTAL	100			16.45	

	Allocation Comparison (%)			Asset Class Benchmark	Actual Return
	Policy	Actual	Difference	Return %	(Net) %
Large Cap US Stocks	30	30.5	0.5	20.59	21.66
Small Cap US Stocks	10	10.4	0.4	16.44	17.89
International Stocks	10	10.5	0.5	26.94	27.21
Emerging Markets	5	5.8	0.8	45.45	48.23
Alternative Investment	5	4.4	0.6	16.83	16.83
US Fixed Income	24	22.3	1.7	6.12	12.52
High Yield Bonds	5	4.8	0.2	11.22	11.62
International Bonds	5	4.4	0.6	2.22	3.41
Cash Equivalents	1	1	0.0	5.21	5.26
Real Estate	5	5.9	0.9	17.24	15.47
TOTAL	100			16.45	18.95

Fiscal Year 2007 As of June 30, 2007 Alla Class Actual mark Return Return Polic^{*} n. rence % 2 6 17.89 30.5 Large Cap US Stocks 36 0.3 Small Cap US Stocks 10 10.4 **International Stocks** 10.5 27.21 10 **Emerging Markets** 48.23 16.83 Alternative Investment 16.83 12.52 **US Fixed Income** 6.12 High Yield Bonds 0.2 11.22 11.62 International 0.6 2.22 3.41 5.21 Cash Equiva 0.0 5.26 Real Estate 15.47 5.9 17.24 0.9 5 TOTAL 100 16.45 18.95

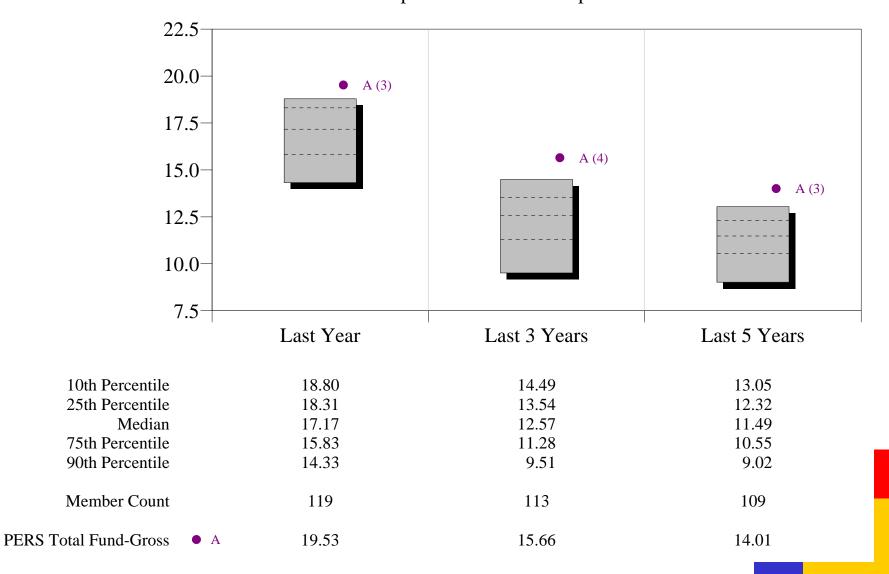
Fiscal Year 2007 As of June 30, 2007 All Class Actual tımark Return Polic^{*} erence % Large Cap US Stocks *50.5* .6 0.5 Small Cap US Stocks 10 *10.4* **7.89 International Stocks** 27.21 10 10 **Emerging Markets** 48.23 16.83 Alternative Investment 16.83 12.52 **US Fixed Income** 6.12 High Yield Bonds 0.2 11.22 11.62 International 2.22 0.6 3.41 5.21 Cash Equiva 5.26 0.0 Real Estate 15.47 5.9 0.9 17.24 TOTAL 100 16.45 18.95

CALLAN ASSOCIATES FUND SPONSOR DATABASE STATISTICS

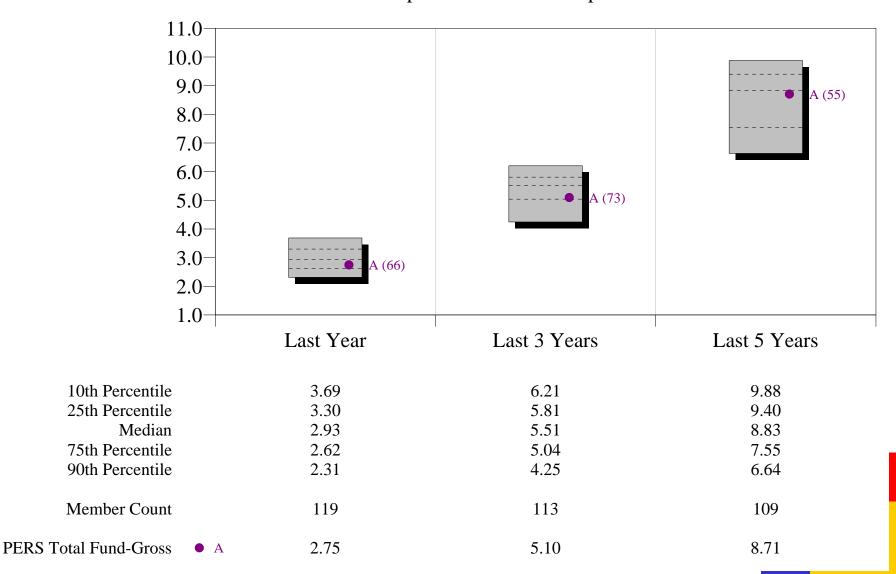
PERIOD ENDED JUNE 30, 2007

Fund Sponsor Database	Approx # of Funds	Approx Total Assets
CAI Public Fund Sponsor		
Database	120	\$750,000,000,000

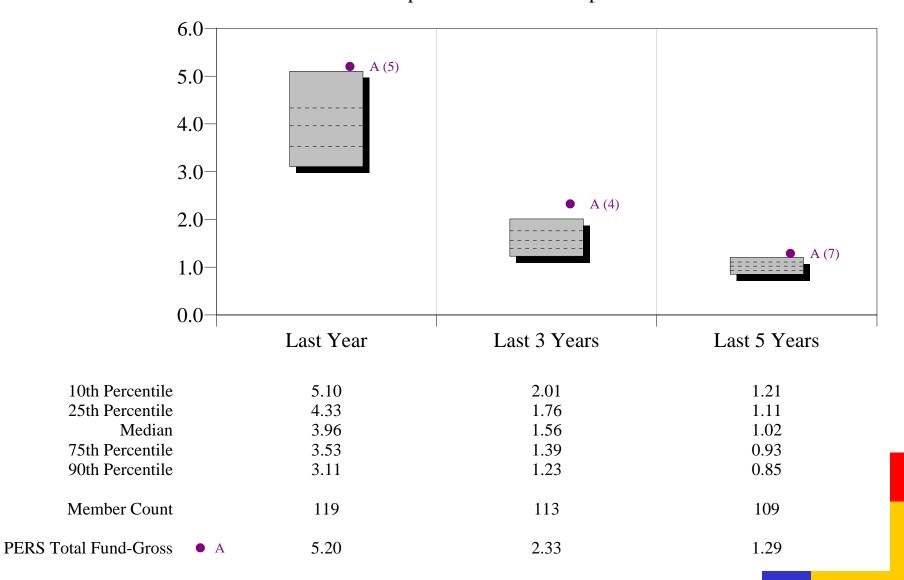
Returns for Periods Ended June 30, 2007 Group: CAI Public Fund Sponsor Database



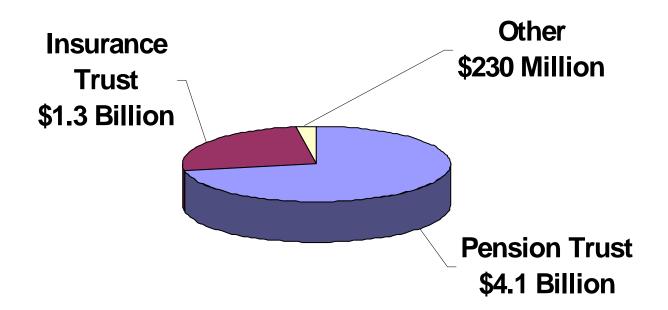
Standard Deviation for Periods Ended June 30, 2007 Group: CAI Public Fund Sponsor Database



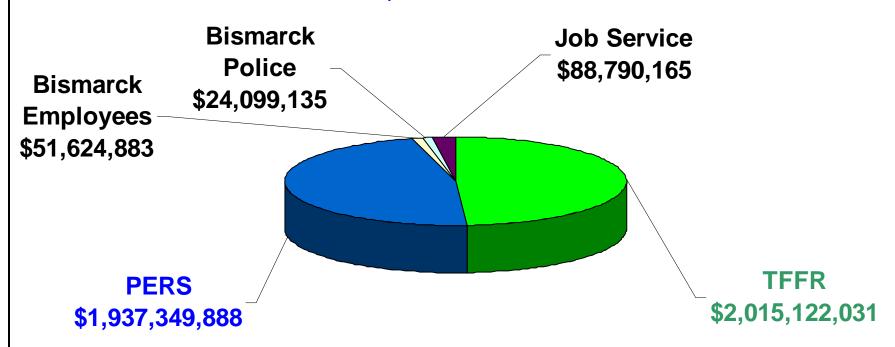
Sharpe Ratio for Periods Ended June 30, 2007 Group: CAI Public Fund Sponsor Database



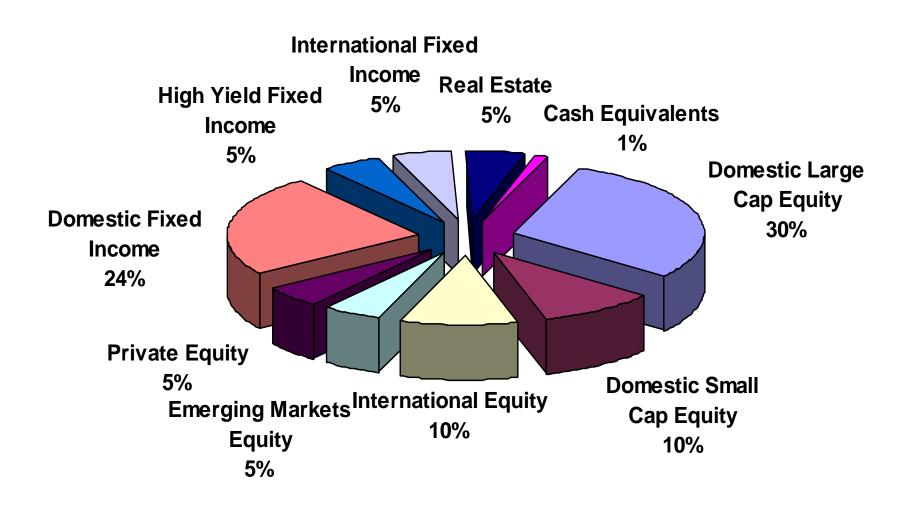
State Investment Board \$5.4 Billion



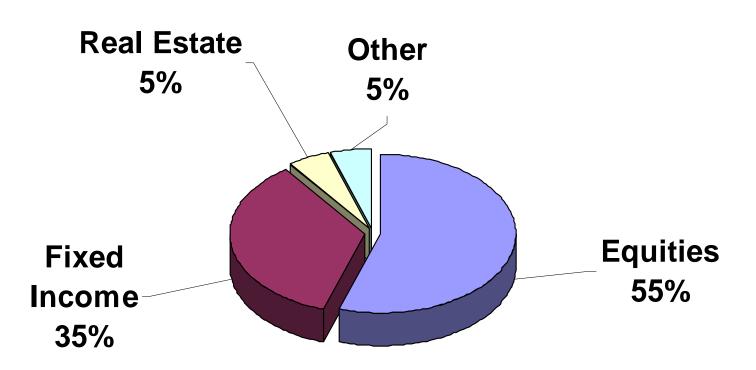
Pension Trust Participants \$4.1 Billion



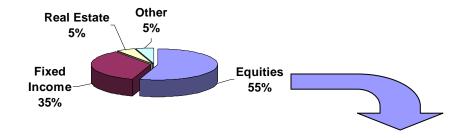
PERS Asset Allocation – FY07



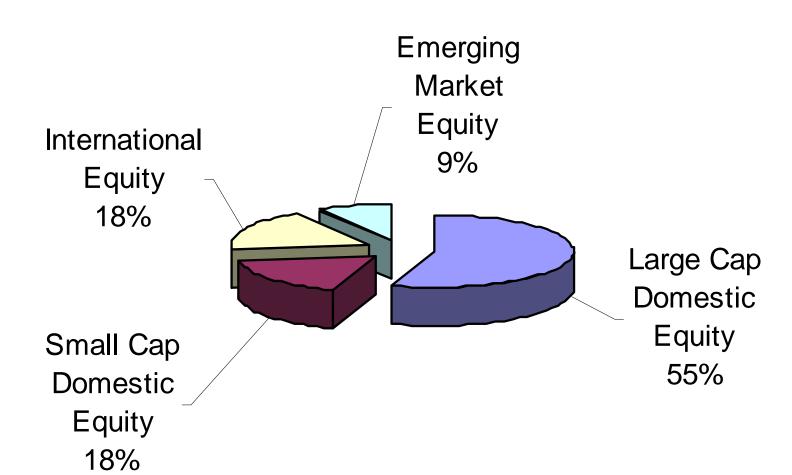
PERS Asset Allocation



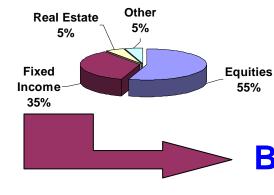
PERS Asset Allocation



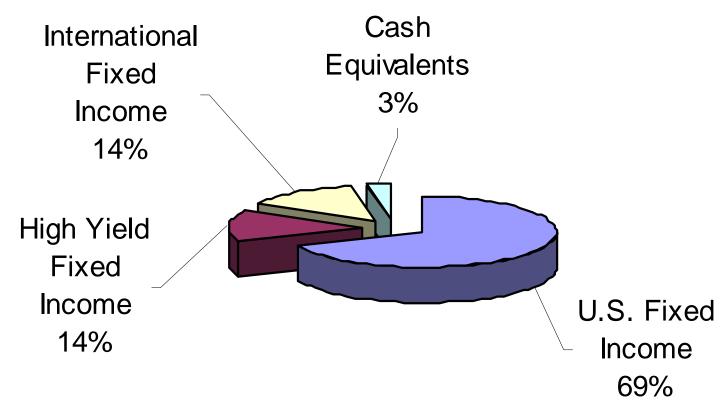
Broad Equity Categories



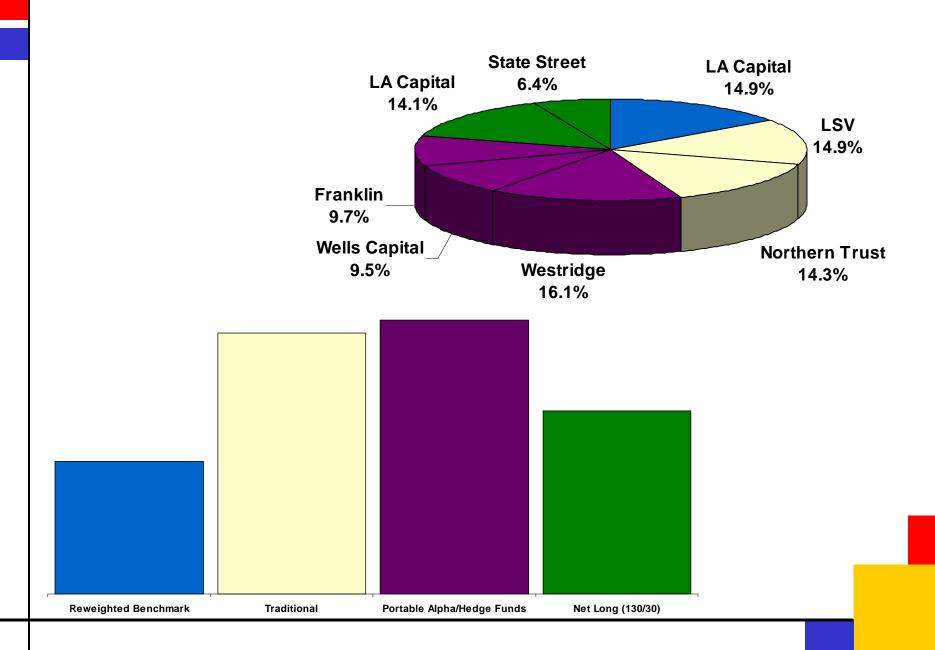
PERS Asset Allocation



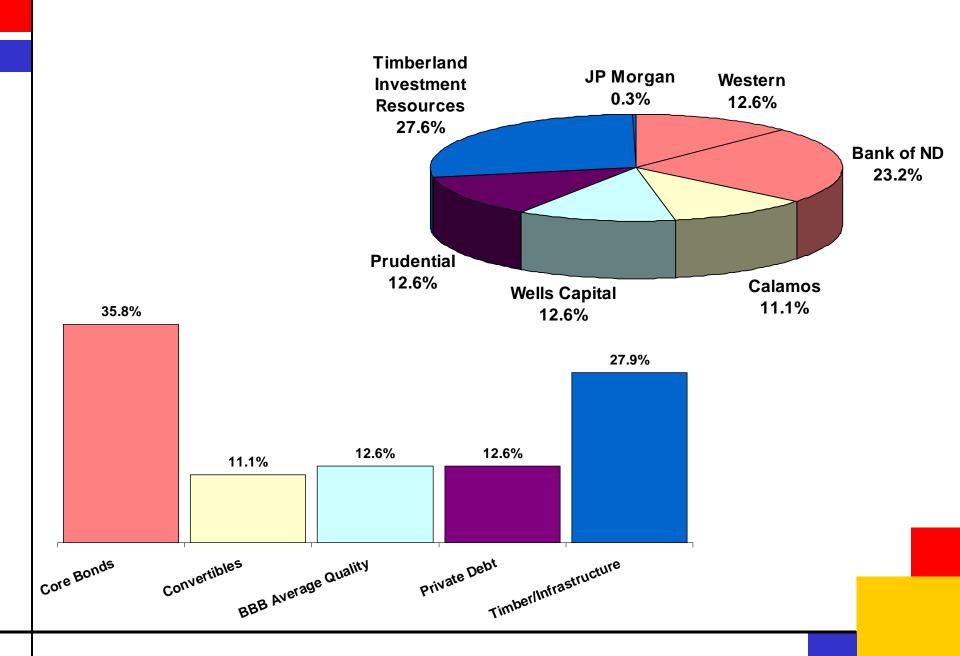
Broad Fixed Income Categories



Domestic Large Cap Equity



Domestic Fixed Income



Traditional Standard Equity Standard Fixed Income Leveraged Bank Loans

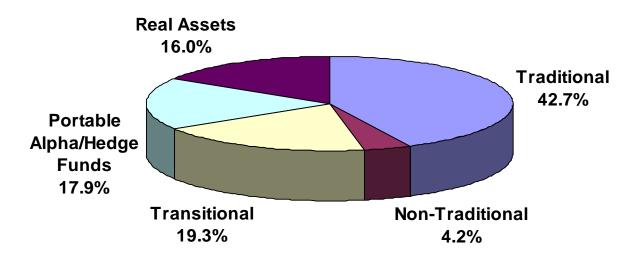
Transitional
Small Cap Int'l Equity
Small Cap EMG Equity
BBB Average Quality Bonds
130 / 30
Convertibles
Private Debt
Mezzanine Debt

Non-Traditional
US and Non-US Private
Equity, VC, Distressed,
Buyouts, Energy

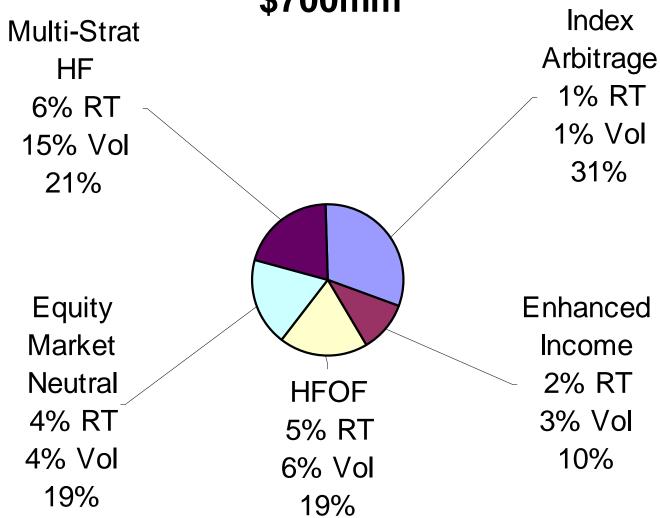
Real Assets
Real Estate
Timberland
Global Infrastructure

Portable Alpha / Hedge Funds
Index Arbitrage
Multi-Strategy
GTAA
Market Neutral
Currency
Commodities
Volatility / Statistical
Arbitrage
Relative Value Arbitrage
Fixed Income Arbitrage
Fund of Hedge Funds
Enhanced Cash

Pension Trust



Portable Alpha Engines \$700mm







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Memorandum

TO: PERS Board

FROM: Sparb

DATE: September 12, 2007

SUBJECT: Supplemental Retiree Payment – SB 2044

This last session Senate Bill 2044 passed and provided the following for the members of PERS, except for the judges:

54-52-17.13. Supplemental retiree benefit payment. If the board determines that the fund has obtained a total return on investments of nine and six hundredths percent or higher for the fiscal year ending June 30, 2007, or June 30, 2008, the board shall authorize an additional payment equal to seventy-five percent of the January retirement allowance following the fiscal yearend to each eligible retiree in pay status as of that January, excluding judicial retirees and beneficiaries, but including joint and survivor and term certain beneficiaries, under this chapter. The board may only make one payment to each retiree under this section.

39-03.1-11.3. Supplemental retiree benefit payment. If the board determines that the fund has obtained a total return on investments of nine and six hundredths percent or higher for the fiscal year ending June 30, 2007, or June 30, 2008, the board shall authorize an additional payment equal to seventy-five percent of the January retirement allowance following the fiscal yearend to each eligible retiree in pay status as of that January, including joint and survivor and term certain beneficiaries, under this chapter. The board may only make one payment under this section.

The report from the RIO indicates the return for PERS for the year ending June 30, 2007 is 18.96%.

Board Action Requested

Approve the increase pursuant to 54-52-17.13 and 39-03.1-11.3 based upon the report from the RIO.



Sparb CollinsExecutive Director (701) 328-3900
1-800-803-7377

FAX: (701) 328-3920 • EMAIL: NDPERS-INFO@ND.GOV • www.nd.gov/ndpers

Memorandum

TO: NDPERS Board

FROM: Kathy

DATE: September 12, 2007

SUBJECT: On-Site Benefit Counseling Service (OBCS)

One of our goals as part of our Business Strategy Plan for 2007 was to develop an on-site one-on-one counseling program and pilot it during the second half of 2007. The purpose of the program is to allow members to receive private pre-retirement counseling from a PERS representative without having to travel to Bismarck. In August, the program was piloted at the Beach Public School and Dickinson State University. The feedback was positive. Between the two sites, ten members received counseling services of which 4 plan to retire before the end of the year. The remaining members had questions about purchase of service credit or requested information for retirement planning purposes. All members were appreciative of the visit. A common question of those counseled was, "Do I still need to come to Bismarck?" They were comfortable with the session and felt any further questions they had could be handled by phone.

We formally introduced the Onsite Benefit Counseling Service (OBCS) effective September 1, 2007, through an announcement published in the PERSonnel Updates newsletter distributed to all participating employers. The program is available upon request and the only requirement is that the employer provide a private meeting room with internet access and take registrations. The following employers have scheduled OBCS for their employees:

Northwest Human Service Center - Williston 9/2 State College of Science - Wahpeton 10/

9/26/07 & 9/27/07 10/23/07 &10/24/07

Other agency requests received but not yet scheduled include:

Fargo Public Schools
Badlands Human Service Center -Dickinson
Lake Region Human Service Center - Devils Lake
ITD Center for Distance Education – Fargo
Developmental Center – Grafton
Pembina County – Cavalier
Northeast Human Service Center – Grand Forks

PERS Board September 12, 2007 Page 2

North Central Human Service Center – Minot Cass County - Fargo

As noted above, we have had a very good response from our participating employers based on our initial promotion of the OBCS. We will continue to promote this service to our participating employers as another option to encourage our members to take a proactive approach to retirement planning.



Sparb Collins Executive Director (701) 328-3900 1-800-803-7377

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Memorandum

TO: PERS Board

FROM: Sparb

DATE: September 12, 2007

SUBJECT: HB 1433

At the June meeting we discussed HB 1433 that directed us to establish a collaborative drug therapy program. Based upon the legislative considerations of the bill that program is to be modeled after the Asheville Project. In June we heard a presentation from a member of that project on their program. Pursuant to the legislation we requested a proposal from the North Dakota Pharmacy Association to implement such a program for our plan. We have received a proposal from them and staff is starting its review. At this meeting we will have a brief a presentation from the Association on their concept. At the November meeting we will review the proposal and at that time we will have a detailed presentation from them. The purpose of the presentation at this meeting is to provide the concept on how the Asheville Project can be applied to North Dakota.



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Memorandum

TO: PERS Board

FROM: Sparb

DATE: September 12, 2007

SUBJECT: Clinical Pharmacy Update

At the last meeting the Board requested an update from BCBS on the clinical pharmacy program. Representative of BCBS will be at the next meeting to provide this update.



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Memorandum

TO: PERS Board

FROM: Sparb

DATE: September 12, 2007

SUBJECT: Medicare Part D Renewal

The Medicare Part D Rx plan is on an annual calendar year renewal with BCBS since it now must follow the federal requirements. This year BCBS in the renewal is offering the existing plan and two options. This memo will first review the renewal for the existing plan and then discuss each of the options.

RENEWAL FOR THE EXISTING PLAN

We have received the renewal from BCBS and the premium increase to maintain the existing plan is:

North Dakota Public Employees Retirement System

2008 Renewal for Group Prescription Drug Plan Based on Current Plan Design

	200	7	200	18		
Enrollment on 7/31/2007	Monthly Premium	Annual Income	Monthly Premium	Annual Income	Rate Increase	
6,087	60.14	\$4,392,866	71.79	\$5,243,648	19.4%	

The following provides more details and compares it to the 2006 rates:

Proposed Increase for the existing plan

	2007	2008	%
-			
Gross Premium	\$112.75	\$130.81	16.02%
CMS Payment	\$53.81	\$59.02	9.68%
Member Payment	\$60.14	\$71.79	19.37%

As the above shows the overall premium increase is 16.02% however the federal subsidy is increasing at 9.68% and not keeping up with the inflation in the plan causing the overall member payment or premium increase to be higher at 19.37%. Further details for the 2007 increase are as follows:

North Dakota Public Employees Retirement System
2008 Renewal Rate Calculation for Group Prescription Drug Plan
Based on 2007 Plan Design

#2 reflects the decision last year to include drugs that were not previously covered (benzodiazepines such as valium, xanax, ativan; barbiturates and drugs used for coughs and colds

Based on 2007 Plan Design		
1. Allowed Claims Amounts (Incurred 1-1-06 thru 6-30-07, paid thru 6-30-07)	16,776,121	
2. Benefit Adjustment to Current Period [(1) x 1.0042]	16,846,937	
3. Completed Incurred Allowed Claims [(2) / 0.9982]	16,876,750	
4. Member Months Exposed	107,034	
5. Adjusted Experience Period Allowed Claims PMPM [(3) / (4)]	157.68	
6. Trend [21 months @ 10.5% annual]	1.18375	
7. Rating Period Allowed Claims PMPM [(5) x (6)]	186.65	
8. Rating Period Plan Paid PMPM [(7) x 0.656]	122.44	
9. Rating Period Member Cost Share PMPM [(7) - (8)]	64.21	
10. Estimated 2008 Rx Drug Rebate PMPM	11.25	
11. 2008 Plan Payments PMPM [(8) - (10)]	111.19	
12. 2008 Anticipated Loss Ratio	85%	
13. 2008 Gross Premium to BCBSND [(11) / (12)]	130.81	
14. CMS Payments to BCBSND	59.02	
15. 2008 Member Premium [(13) - (14)]	71.79	

OPTION #1

The retiree plan design for Rx has been the same as the active plan. However, with the advent of the Medicare Rx program the renewal dates for the plans are now different. The active plan renews every two years in July and the retiree plan renews each year in January. This year the active plan design changed in July; however, since the retiree plan does not renew until January, their plan design did not change. Specifically, the change in the plan design change which was an increase in the co-payment for formulary brand name drugs from \$15 to \$20. The following is the financial effect of making this same change to the retiree plan effective January 1:

_	2007	2008	%	Alt #1	%
Gross Premum	\$112.75	\$130.81	16.02%	\$125.05	10.91%
CMS Payment	\$53.81	\$59.02	9.68%	\$59.02	9.68%
Member Payment	\$60.14	\$71.79	19.37%	\$66.03	9.79%

The above shows that if we change the retiree plan to add another \$5 to the co-payment for formulary brand name drugs so it is the same as the active plan on January 1; this will reduce the increase from 19.37% to 9.79%.

OPTION #2

At a previous meeting Larry reported that Medicare Blue Rx is implementing a new formulary for its MedicareBlue Rx lines of business. However, they are allowing PERS to retain the old formulary if we so elect and the renewal numbers assume the continuation of the existing formulary. If we were to change to the same formulary that Medicare Blue will be using it would reduce the increase as follows:

	2007	2008	%	Alt #1	%
Gross Premum	\$112.75	\$130.81	16.02%	\$115.46	2.40%
CMS Payment	\$53.81	\$59.02	9.68%	\$59.02	9.68%
Member Payment	\$60.14	\$71.79	19.37%	\$56.44	-6.15%

The above shows that if we migrated to the new formulary it would reduce the premium increase from 19.37% to a reduction of 6.15%.

If we were to make this change about 555 people would be affected and this includes:

- 137 single source drugs
- 418 multi source drugs

Larry will be at the meeting to review the implications of this change in more detail.

OPTION #3

Option 3 would be to do both the changes discussed above. The effect on premium for doing both would be:

_	2007	2008	#1 &2	%
Gross Premum	\$112.75	\$130.81	109.69	-2.71%
CMS Payment	\$53.81	\$59.02	59.02	9.68%
Member Payment	\$60.14	\$71.79	50.67	-15.75%

If both options were adopted this would result in a 15.75% (\$113.64 per year) decrease from the existing rates and an almost 30% (\$253.44 per year) decrease from the proposed 2008 rates.

SUMMARY

The following is summary of the Medicare Blue Rx rates for this year, proposed for next year and the effect on premiums of the options:

_	2007	2008	Option #1	Option #2	#1 &2
Gross Premum	\$112.75	\$130.81	125.05	115.46	109.69
CMS Payment	\$53.81	\$59.02	59.02	59.02	59.02
Member Payment	\$60.14	\$71.79	66.03	56.44	50.67

_	2007	2008	Option #1	Option #2	#1 &2
Gross Premum		16.02%	10.91%	2.40%	-2.71%
CMS Payment		9.68%	9.68%	9.68%	9.68%
Member Payment		19.37%	9.79%	-6.15%	-15.75%

Medicare Part D Renewal Page 5

The PERS Retiree Committee met to review the above information.

Retiree Committee Recommendation

At the Retiree Committee meeting they reviewed the above information and heard a presentation from BCBS. After discussion, it is the recommendation of that committee to the PERS Board to adopt Option #2, the new formulary. The committee is not recommending Option #1, the plan design change, since they felt there is a greater value in not having to pay an additional \$5 per script compared to saving \$5.76 per month in premium.

STAFF RECOMMENDATION

To renew the Medicare Blue Rx plan with the new formulary for 2008.

BOARD ACTION REQUESTED

To determine the renewal with Medicare Blue Rx for 2008.



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Memorandum

TO: NDPERS Board

FROM: Sharmain

DATE: September 12, 2007

SUBJECT: Temporary/Part-time Employees

Senate Bill 2045 passed by the legislature, modified the eligibility requirements for temporary/part-time employees employed on or after August 1, 2007. The following is from the bill relating to this change:

A temporary employee employed before August 1, 2007, may elect to participate in the uniform group insurance program by completing the necessary enrollment forms and qualifying under the medical underwriting requirements of the program. A temporary employee employed on or after August 1, 2007, is only eligible to participate in the uniform group insurance program if the employee is employed at least twenty hours per week and at least twenty weeks each year of employment.

The above is referred to as the 20/20 rule. In developing this change it was crafted to maintain the continuity of coverage for existing temporary employees so they would not be required to drop their coverage. The reason for the change was stated in the testimony:

Section 4 of the bill relates to participation of temporary employees in the group health insurance plan. This section defines participation by temporary employees to those employees that work at least 20 hours per week for at least 20 weeks per year. The purpose of this amendment is to reduce the possibility of adverse selection against the plan. As presently written a participating employer can hire a temporary employee that has significant health issues for one hour a month and they could elect to join the plan. The cost of providing that coverage to that member could be many times the cost of the premium. When a plan allows the opportunity for this type of adverse selection it could cause the plans costs to increase at an atypical rate thereby causing premiums to rise faster. Establishing this minimum requirement would insure that temporary employees are similar to active employees with a similar risk profile.

With the implementation of this new legislation, an issue as been identified that relates to continuity of coverage for certain temporary employees and requires clarification. The issue concerns certain employers who have seasonal employees who work less than 12 months a year. The following are examples of employers who have seasonal employees:

Public Schools
Higher Education
Parks & Recreation
Department of Transportation
Tax Department

Temporary/Part-time Employees September 12, 2007 Page 2

Employers have differing procedures on the treatment of seasonal employees. Some employers maintain them on their group plan for the entire year with some of the time designated as a leave of absence. When the return to their temporary employment after a leave they are not rehired their status is merely changed from LOA back to temp. For these employees they would clearly met the requirements of the law and be able to continue their coverage in the health plan. However some other employers will terminate the employee at the end of their temporary employment and then rehire them a couple of months later. These employees would go on COBRA and when they return as temps they would then go back on the group billing and be shown as a new hire. For some of the members in this group they have been doing this for years. The question now is with the change in the law are they eligible to come back on as a temp. An example of this practice is one institution in higher education.

Example – Higher Education:

For temporary instructors their employment is terminated at the end of each school year. If student enrollment is large enough, the university contacts with the instructor with classes in the next year.. The university and the instructor then agree on the number of credits they will teach for the semester and based on the class load, it is determined whether or not they get benefits. If the class load is small they do not get benefits but they can take the health plan as a temp.

If the employee is put on a leave of absence, the employers keep the employees on their departmental group insurance billing and collect the appropriate premium. If the employer terminates the employee's employment, then the employee may have to option to continue group insurance coverage through COBRA.

The question that has arisen affects temporary/part-time employees who work less than 20/20 and were on the employer's group insurance billing prior to August 1, 2007 were terminated prior to August 1, 2007 are, now be on COBRA and are being rehired by their employer as temp. The question is are they eligible to resume being on the employer's billing and charged the applicable premium or must they remain on the COBRA plan and participation with NDPERS would be terminated at the end of their COBRA period.

STAFF RECOMMENDATION

Staff suggests that any temporary/part-time employee, working less than the 20/20 rule, who already participates in health/life plans be considered employed prior to August 2007 if they meet the following 3 conditions:

- 1. Enrolled and participating in the group health and life plans prior to August 1, 2007.
- 2. Continued their participation either through the employer billing or on COBRA during the months they were not working.
- 3. Returned to employment within 12 months.

Temporary/Part-time Employees September 12, 2007 Page 3

If their participation in the health/life plan stops at any point, then they will be treated as new hires and subject to the 20/20 rule. This criteria is suggested for the following reasons:

- The legislation was intended to apply prospectively to new enrollees and this approach is consistent with that intention
- The bill was intended to guard against adverse selection. People who are already on the plan do not present an adverse selection issue.
- The bill was not intended to effect the continuity of coverage for existing members

Board Action Requested

To determine how temporary employees who are terminated each year by their employer and then rehired are to be treated.



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Memorandum

TO: PERS Board

FROM: Rebecca, Kathy & Sparb

DATE: September 12, 2007

SUBJECT: Coordination of Employer Based Wellness Program and Wellness

Benefit Program

Over the past several months, staff has been working on the coordination of the Employer Based Wellness Program and the Wellness Benefit Program. The Employer Based Wellness Program is the 1% premium discount that applies to employers who have submitted an approved wellness application outlining the wellness activities that they are going to promote on an annual basis. The Wellness Benefit Program provides assistance to employers to promote wellness activities for their employees. Through previous Board action, the following changes have been made:

- 1) In order to apply for assistance through the program, an employer must be an approved wellness employer who is receiving the 1% premium discount.
- 2) Applications submitted on behalf of an employer need to be signed by the agency's designated wellness coordinator.
- 3) Applications need to demonstrate the direct correlation between the request for funding dollars and the wellness activities that were approved to receive the 1% premium discount.

In addition to the above, staff has been reviewing other options to better coordinate these two programs. One item we are proposing is to require that employers submit their application at the same time they submit the 1% premium discount application. The advantages of this change are:

- a. It links the wellness efforts providing more coordination at the employer level
- b. It targets the wellness benefit to employers wellness planning process
- c. It supports and reinforces the importance of the employer based wellness efforts

PERS Board September 12, 2007 Coordination of Programs Page 2

This change would take effect for the 2008-2009 wellness plan year. Staff discussed this item at the Payroll Conference and requested input from the employers and wellness coordinators regarding this change. The input received is attached for your reference. If approved by the Board, staff will provide more specific details on this change to the coordinators at the Wellness Forum scheduled for November 14.

Board Action Requested:

Approve or disapprove proposed change to require that requests for the wellness benefit application be submitted at the same time as employers submit the 1% premium discount application effective with the 2008-2009 wellness plan year.

From: Ellen M Bjelland [Ellen.Bjelland@ndsu.edu]

Sent: Friday, July 27, 2007 3:35 PM

To: Fricke, Rebecca D.

Subject: RE: Coordination of Programs

NDPERS is also seeking your input regarding future efforts to coordinate these two programs. One idea being considered is to require that the request for funding be submitted with the 1% premium discount application for the July 1, 2008 through June 30, 2009 year. Therefore, both applications would be submitted together by January 31, 2008 for the upcoming plan year.

Please provide your comments regarding this proposed change via email to either Rebecca Fricke at rfricke@nd.gov or Kathy Allen at kallen@nd.gov. We would appreciate hearing from you by August 31 as we will need to determine if this change would be made in time to seek board approval and to discuss at the 2007 Wellness Forum.

I would wholeheartedly support the joint application! This makes so much more sense than how the process is currently being administered.

Ellen

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Ellen M. Bjelland
Extension Agent/Human Development & Family Science
NDSU/Barnes County Extension Service
230 4th St. NW, Room 204
Valley City, ND 58072
Phone:701.845.8549 (Voicemail) FAX:701.845.8538
ellen.bjelland@ndsu.edu

"Nothing you do for children is ever wasted."

Garrison Keillor

From:

Lisa Bachler [Lisa.Bachler@sendit.nodak.edu]

Sent:

Tuesday, July 10, 2007 9:45 AM

To: Subject:

Fricke, Rebecca D. Wellness Program

Hi Rebecca,

I would just like to let you know I think the idea to require the request for funding with the 1% premium discount is a good idea. This would be one less form needing to be filled out which I think would make things a little more simplified.

I also wanted to let you know I will be leaving the school district this month. The Board will be replacing me, however, they don't have anyone hired yet. Once they have someone hired would she need to re-fill out the Commitment Agreement or should she just email you & let you know her name & other info?

Thank you.

Lisa Bachler, Business Manager New Salem School Dist. #7 Box 387, New Salem, ND 58563 (701) 843-7610 fax (701) 843-7011

From: Diane Thorne [dthorne@nd.gov]

Sent: Friday, June 08, 2007 12:54 PM

To: Fricke, Rebecca D.

Subject: Re: June 2007 Wellness Program - Coordinator Information - Coordination of Programs

Hi Rebecca,

This is Diane Thorne from First District Health Unit in Minot and I like the idea of both forms being submitted at the same time.

Diane Thorne First District Health Unit Wellness Coordinator Minot, ND dthorne@nd.gov

From:

Jim Abbott - NDSCPA & NDSBA [jabbott@invisimax.com]

Sent:

Friday, June 08, 2007 11:58 AM

To:

Fricke, Rebecca D.

Subject: RE: June 2007 Wellness Program - Coordinator Information - Coordination of Programs

We don't use the funding request process, and don't plan to. We use only the employer based wellness part.

Jim A. NDSBA

----Original Message----

From: Fricke, Rebecca D. [mailto:rfricke@nd.gov]

Sent: Friday, June 08, 2007 11:30 AM

To: Fricke, Rebecca D.

Subject: June 2007 Wellness Program - Coordinator Information - Coordination of Programs

North Dakota Public Employees Retirement System

June 2007

Wellness Coordinator Information

Please review the attached document regarding the coordin of the Employer Based Wellness Program and the Wellness Benefit Funding Program. If you have any questions, please me know.

Rebecca Fricke NDPERS Wellness Coordinator 701.328.3978 (800) 803-7377

From: Larson, Marlene D.

Sent: Friday, August 31, 2007 8:51 AM

To: Fricke, Rebecca D.

Subject: Comments Proposed Change to Wellness Funds Request/Discount Application

Hi Rebecca...

We support your proposed change to make the request for wellness funds part of the 1% Insurance Premium Discount Application. The discount application includes the submission of planned wellness activities for a fiscal year so it would be a good "tie-in" of identifying uses for PERS wellness funds as well.

Marlene Larson

Human Resources Division NDDOT 701-328-4328



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Memorandum

TO: NDPERS Board

FROM: Kathy

DATE: September 12, 2007

SUBJECT: Flu Shot Program

We were notified by UND Center for Family Medicine on September 6, that they have finalized documents and dates for the Annual Flu Shot Clinic for State Employees.

This year the cost for each immunization has been established at \$15.00. Also, this year employees will receive a choice as to whether or not they would like to receive nasal-spray (FluMist®) versus an injection. The cost is the same for either of the two types of influenza vaccine.

The Centers for Disease Control & Prevention/Advisory Committee on Immunization Practices (CDC/ACIP) have indicated that "Administration of LAIV [FluMist®] is encouraged as soon as it is available and throughout the season". Therefore, this year, the Center will be hosting its first Flu Mist® "only" night on October 2nd to kick-off the campaign. They will also be able to start the vaccination clinics earlier, as they have already received their first shipment of Flu Mist®. The vaccines will be administered at the Center for Family Medicine Offices from 4:00 p.m. to 6:00 p.m. according to the schedule below:

	October 2nd	Flu Mist ® <u>only</u> night
Tuesday	October 16 th	Persons age ≥ 50 yrs + ANY individuals considered @ High-Risk
Thursday	October 18 th	Families - Last Names beginning with (A – K)
Tuesday	October 23 rd	Families - Last Names beginning with $(L - Z)$
Thursday	October 25 th	OPEN to those members that remain to be immunized

If additional sessions need to be scheduled, UND has indicated that this can be arranged.

Attached is the memo provided by UND to notify our active and retired members about the program along with a notice to educate the public on what the difference is between an injection (flu shot) and nasal-spray (FluMist®) vaccination. PERS will distribute this information to its contacts for dissemination to employees and retirees. To streamline the process, all participants will be asked to fill out the attached NDPERS Flu Shot Form before they arrive at the clinic (if possible). This is the same process we used last year and it proved to be very efficient for the participants as well as for the PERS and clinic staffs. All information will also be posted on the PERS web site home page throughout the duration of the program.

Annual ND PERS Flu Vaccination Clinic Update: 08/31/07

The **UND Center for Family Medicine** will be offering a Flu Vaccination Clinic again this fall to N.D. State employees, retirees, and their eligible family members participating in the NDPERS health insurance plan.

The cost for each immunization is \$15.00 and is payable by cash or personal check (please make payable to UND Center for Family Medicine) at the door. No insurance claim(s) will be filed.

Please advise nursing representatives if you wish to have members of your family receive the nasal-spray versus an injection. Cost is the same for either of the two types of influenza vaccine.

Immunizations will be given at the **UND Center for Family Medicine**, 515 East Broadway Avenue, Bismarck, ND from **4:00 PM to 6:00 PM** according to the schedule below. For your convenience, free parking will be available in the Parkade ramp. Members will be required to show their NDPERS/BCBS insurance identification card. If possible, we are requesting your cooperation in assisting us to comply with the outlined scheduled.

The Centers for Disease Control & Prevention/Advisory Committee on Immunization Practices (CDC/ACIP) have indicated that "Administration of LAIV [FluMist®] is encouraged as soon as it is available and throughout the season". Therefore, this year, we will be hosting our first Flu Mist® "only" night.

Tuesday	October 2nd	Flu Mist ® <u>only</u> night
Tuesday	October 16 th	Persons age \geq 50 yrs + ANY individuals considered @ High-Risk
Thursday	October 18 th	Families - Last Names beginning with $(A - K)$
Tuesday	October 23 rd	Families - Last Names beginning with $(L-Z)$
Thursday	October 25 th	OPEN to those members that remain to be immunized

The number of immunizations allocated to our group is limited based on availability.

Key Facts about Influenza (Flu) Vaccine issued by the Department of Health & Human Services, Centers for Disease Control & Prevention can be located on their web-site: http://www.cdc.gov/flu/protect/keyfacts.htm

Priority groups for vaccination (as per the ACIP) Advisory Committee on Immunization Practices

1.) People at high risk for complications from the flu, including:

- Children aged 6 months until their 5th birthday,
- > Pregnant women,
- People 50 years of age and older, and
- People of any age with certain chronic medical conditions;
- People who live in nursing homes and other long term care facilities.

2.) People who live with or care for those at high risk for complications from flu, including:

- ➤ Household contacts of persons at high risk for complications from the flu (see above),
- ➤ Household contacts and out of home caregivers of children less than 6 months of age (as these children are too young to be vaccinated), and
- > Healthcare workers.

Please route the attached notice to your members in the Bismarck-Mandan area. Thank you for your assistance. The single best way to prevent the flu is to get a flu vaccine each fall!

There are two types of influenza vaccine:

- Live, attenuated influenza vaccine (LAIV) was licensed in 2003. LAIV contains live but attenuated (weakened) influenza virus. It is sprayed into the nostrils rather than injected into the muscle. FluMist[®] is indicated for active immunization for the prevention of disease caused by influenza A and B viruses in healthy children and adolescents, 5 to 17 years of age, and healthy adults, 18 to 49 years of age, who are not pregnant.
- Inactivated influenza vaccine, sometimes called the "Flu Shot", has been used for many years and is given by injection. It is approved for use among persons aged ≥6 months, including those who are healthy and those with medical conditions.

How many doses are recommended per season?

- Children 5 8 years old need two doses at least 6 weeks apart in their first year of vaccination with FluMist[®].
- Individuals 9 49 years old need only one dose.

Are there certain people who should not receive FluMist[®]?

As with any medication, individuals should check with their health care provider before receiving any flu vaccines. According to the approved package insert, the following people should not get the intranasal influenza vaccine:

- Adults 50 years of age or older, or children younger than 5 should not receive FluMist.
- FluMist should not be given for any reason to people with immune suppression. This includes people with primary immune deficiency diseases, as well as people with immune deficiencies related to HIV infection, cancer, or other conditions, and people who are being treated with drugs that cause immunosuppression.
- The safety of FluMist in people with asthma or other reactive airway diseases has not been established, and therefore, is not recommended for use in patients with a history of reactive airway problems.
- Additionally, FluMist should not be given to people with chronic underlying medical conditions
 that may predispose them to severe flu infections. For these people, the injected vaccine is
 indicated.
- Individuals with egg allergies should not receive this or any other flu vaccine without first consulting their physicians.
- People who have health problems associated with heart disease, kidney disease, lung disease, or metabolic diseases such as diabetes, anemia and other blood disorders should not receive FluMist.
- Because Reye syndrome in children has been associated with administration of aspirin during influenza virus infections, FluMist is not recommended in children and adolescents 5-17 years of age if they are receiving aspirin or aspirin-containing therapy.
- Pregnant women should not receive FluMist.
- Anyone with a history of Guillain-Barré Syndrome (GBS) should not receive FluMist.
- FluMist recipients should avoid close contact (e.g., within the same household) with anyone with a weakened immune system for at least 21 days after receiving the vaccine.



Bismarck, ND 58501			
Name (Please Print)		Birth Date	
			Č
Address:	City	State	Zip
Have you received any services	from UND Cer	nter for Family Medicin	e previously?
X			
X Signature (Person Receiving	Vaccine or Par	rent/Guardian)	
		linic Use)	
	(For C	,	
Name of Clinic:		Injection Given By:	
UND Center for Family Medic Date of Vaccination:	<u>cine</u>	Notes/Other Diagnose	es
Manufacturer & Lot #:	-		
Site of Injection	_		
Chronic Disease:	-		
□ Yes □ No			
☐ I have explained rational of f	flu vaccine as v	vell as risks and limitati	ons.
☐ I have explained potential sid	de effects.		
☐ I have reviewed healthy lifes screening tests.	style issues wit	h this patient including	recommendations for
☐ Patient had opportunity to as	sk questions.		
☐ Comments:			
Physician Encounter By:		Date:	<u> </u>

☐ FluMist[®] ☐ Flu Shot



North Dakota **Public Employees Retirement System**

400 East Broadway, Suite 505 • Box 1657 Bismarck, North Dakota 58502-1657

Sparb Collins **Executive Director** (701) 328-3900 1-800-803-7377

FAX: (701) 328-3920 • EMAIL: NDPERS-INFO@ND.GOV • www.nd.gov/ndpers

MEMORANDUM

TO:

NDPERS BOARD

SPARB COLLINS, NDPERS KATHY ALLEN, NDPERS

FROM:

BRYAN T. **`**REINHARDT

DATE:

August 21, 2007

SUBJECT: GROUP MEDICAL PLAN - SURPLUS/AFFORDABILITY UPDATE

Here is the July surplus projection and affordability analysis for the NDPERS group medical plan. The plan made it through the 2005-2007 biennium. We will start to analyze the 07-09 period after about six months of experience.

Net premium sent to BCBS in July 2007 was \$13,406,858. 2005 it was \$10,853,370. There are now 24,260 contracts on the NDPERS Health Plan. The NDPERS health plan ended up with 23,580 contracts in June, 2005. There were 22,947 contracts in June, 2003, and 21,792 in July 2001.

The 2003 - 2005 biennium settlement is on account at BCBS with a balance of \$2 million. The remaining \$14.3 million was used to buy down premiums for the 05-07 biennium. These amounts are at BCBS and receiving interest.

The projection for the 2005 - 2007 biennium shows a June 30, 2007 ending gain of \$650,000. Since we share 50/50 in the first \$3.0 million surplus with BCBS, future growth in this surplus will be difficult. BCBS has the IBNR estimate for this projection at \$6,550,000.

If you have any questions or you should need anymore information, please contact me.

· Retirement Programs

FlexComp Program

Employee Health & Life Insurance

Dental

- Public Employees - Highway Patrol

- Judges

- Prior Service

· Retiree Health Insurance Cred Deferred Compensation Progr

· Long Term Care Program

Vision

- National Guard/Law Enforcement

- Job Service

NDPERS - ESTIMATED SURPLUS PROJECTION: 2005-2007 BIENNIUM July, 2007

The following exhibit summarizes the estimated surplus for the NDPERS group medical plan at the end of the 2005-2007 biennium. The estimate has been updated to include account activity through July, 2007.

1) Preliminary Underwriting Gain for the 2005-2007 Biennium	(\$14,024,700)
2) Cash Balance Interest Accumulation	\$1,095,235
3) Estimated Underwriting Gain for the 2005-2007 Blennium	(\$12,929,465)
5) Refunds and Settlements 07/01/05 Perform Rebate (Included as claim rebates) 10/04/05 Perform Rebate (Included as claim rebates) 12/01/05 Perform Rebate (Included as claim rebates) 01/01/06 Perform Rebate (Included as claim rebates) 02/24/06 Perform Rebate (Included as claim rebates) 03/01/06 Perform Rebate (Included as claim rebates) 05/26/06 Perform Rebate (Included as claim rebates) 08/31/06 Perform Rebate (Included as claim rebates) 11/30/06 Perform Rebate (Included as claim rebates) 12/30/06 Perform Rebate (Included as claim rebates) 02/28/07 Perform Rebate (Included as claim rebates) 03-04/07 Perform Rebate (Included as claim rebates)	\$424,842 \$430,343 \$8,716 \$332,766 \$387,919 \$15,236 \$280,399 \$288,072 \$266,417 \$23,228 \$272,137 \$7,686
05/31/07 Perform Rebate (Included as claim rebates) 06/07-07/07 Perform Reba (Included as claim rebates) EPO Settlement Payments 7/05 - 6/06 (Included as rebates & paid)	\$280,570 \$326 \$1,277,000
EPO Settlement Payments 7/06 - 6/07 (Included as rebates & paid)	\$0
6) Cash Reserve Account Balance 2003-2005 Settlement Cash Out: Future Interest:	\$15,666,912 (\$1,439,151) \$0 \$14,227,761
7) Total Estimated Surplus Held by BCBS	\$1,298,296
8) BCBS Portion of Surplus (50% upto \$1,500,000)	\$649,148
9) PERS Portion of Surplus Held by BCBS	\$649,148
10) NDPERS Wellness Accounts My Health Connection Employer Based Wellness Wellness Benefit Program SubTotal Total Adjusted for Usage	\$0 \$0 \$0 \$0 \$0
11) Total Estimated Funds Available to PERS on June 30, 2007	\$649,148

NDPERS - Projected Underwritten Experience for the 2005-2007 Biennium July, 2007

	NET		TOTAL	ADMIN		CLAIMS	ESTIMATED	TOTAL	ESTIMATED
	PREMIUM	PREMIUM	PREMIUM	EXPENSE	NET	INCURRED &	IBNR	INCURRED	GAIN /
MONTH	COLLECTED	ADJUSTMENT	INCOME	\$26.98/CON	PREMIUM	PAID TO DATE	CLAIMS	CLAIMS (1)	LOSS
Jul-05	\$11,491,070	(\$2,387)	\$11,488,683	\$637,699	\$10,850,984	\$10,938,113	\$0	\$10,938,113	(\$87,129)
Aug-05	\$11,486,984	\$0	\$11,486,984	\$635,676	\$10,851,308	\$10,788,970	\$0	\$10,788,970	\$62,338
Sep-05	\$11,592,130	\$0	\$11,592,130	\$641,396	\$10,950,735	\$9,702,139	\$0	\$9,702,139	\$1,248,596
Oct-05	\$11,564,639	(\$995)	\$11,563,644	\$640,748	\$10,922,896	\$10,049,197	\$0	\$10,049,197	\$873,699
Nov-05	\$11,565,139	\$1,417	\$11,566,556	\$640,478	\$10,926,078	\$11,368,489	\$0	\$11,368,489	(\$442,411)
Dec-05	\$11,575,731	\$7,675	\$11,583,406	\$640,829	\$10,942,577	\$11,769,736	\$0	\$11,769,736	(\$827,159)
Jan-06	\$11,053,969	\$332	\$11,054,300	\$644,606	\$10,409,694	\$10,017,059	\$0	\$10,017,059	\$392,635
Feb-06	\$11,053,628	\$0	\$11,053,628	\$645,308	\$10,408,320	\$9,714,282	\$0	\$9,714,282	\$694,038
Mar-06	\$11,049,994	(\$26,775)	\$11,023,218	\$645,146	\$10,378,073	\$12,088,130	\$0	\$12,088,130	(\$1,710,057)
Apr-06	\$11,066,004	(\$36,321)	\$11,029,683	\$645,820	\$10,383,862	\$10,969,513	\$0	\$10,969,513	(\$585,651)
May-06	\$11,064,390	\$3,501	\$11,067,891	\$646,198	\$10,421,693	\$11,062,045	\$0	\$11,062,045	(\$640,352)
Jun-06	\$11,076,821	\$0	\$11,076,821	\$647,385	\$10,429,436	\$11,673,009	\$0	\$11,673,009	(\$1,243,573)
Jul-06	\$11,056,557	\$0	\$11,056,557	\$646,495	\$10,410,063	\$10,383,205	\$0	\$10,383,205	\$26,858
Aug-06	\$11,052,995	\$0	\$11,052,995	\$646,414	\$10,406,581	\$11,413,731	\$0	\$11,413,731	(\$1,007,150)
Sep-06	\$11,153,014	\$0	\$11,153,014	\$650,785	\$10,502,229	\$10,099,804	\$0	\$10,099,804	\$402,425
Oct-06	\$11,116,487	\$6,351	\$11,122,838	\$650,515	\$10,472,323	\$11,297,854	\$0	\$11,297,854	(\$825,531)
Nov-06	\$11,146,017	(\$8,222)	\$11,137,795	\$652,916	\$10,484,879	\$11,242,132	\$30,000	\$11,272,132	(\$787,253)
Dec-06	\$11,130,343	(\$12,813)	\$11,117,530	\$651,972	\$10,465,558	\$11,474,172	\$80,000	\$11,554,172	(\$1,088,614)
Jan-07	\$11,173,395	(\$5,016)	\$11,168,379	\$654,643	\$10,513,737	\$11,624,339	\$90,000	\$11,714,339	(\$1,200,602)
Feb-07	\$11,192,661	\$1,098	\$11,193,759	\$658,177	\$10,535,582	\$9,750,774	\$200,000	\$9,950,774	\$584,808
Mar-07	\$11,192,066	\$4,290	\$11,196,356	\$656,154	\$10,540,202	\$11,850,544	\$350,000	\$12,200,544	(\$1,660,342)
Apr-07	\$11,212,566	\$6,117	\$11,218,683	\$657,017	\$10,561,666	\$10,942,961	\$800,000	\$11,742,961	(\$1,181,295)
May-07	\$11,213,832	\$6,568	\$11,220,400	\$656,909	\$10,563,491	\$11,418,665	\$1,500,000	\$12,918,665	(\$2,355,174)
Jun-07	\$11,210,872	\$4,950	\$11,215,822	\$657,125	\$10,558,697	\$9,726,490	\$3,500,000	\$13,226,490	(\$2,667,793)
BIENNIAL									
TOTAL	\$269,491,302	(\$50,231)	\$269,441,072	\$15,550,409	\$253,890,663	\$261,365,353	\$6,550,000	\$267,915,353	(\$14,024,690)

⁽¹⁾ Future Months are Estimated based on Projection from NDPERS.





Memo

To: NDPERS Board

From: Bryan T. Reinhardt

Date: 9/14/2007

Re: 457 Companion Plan & 401(a) plan 2nd Quarter 2007 Reports

Here is the 2nd quarter 2007 investment report for the 401(a) & 457 Companion Plan. The reports are available separately on the NDPERS web site. The NDPERS Investment Subcommittee reviewed the 2nd quarter report and has no Board action.

Assets in the 401(a) plan increased to \$17.8 million as of June 30, 2007. The number of participants is at 298, about the same as when the plan started. The largest funds are the Fidelity Managed Income Portfolio and Fidelity Growth Company each with 13% of the assets.

Assets in the 457 Companion Plan increased to about \$23.4 million as of June 30, 2007. This is up from \$12.1 million on 12/31/03 (93% increase). The number of participants dropped from 1,319 after the transition to Fidelity, but is increasing and is now at 1,731. The largest funds are the Fidelity Freedom 2020 Fund and the Fidelity Diversified International Fund with 12% of the assets each.

Benchmarks:

All of the fund returns for the quarter were positive except for the PIMCO Total Return Bond Fund. **Fidelity Managed Income Portfolio** was the only fund that performed lower than its benchmarks for all periods (QTR, Y-T-D, 1-year, 3-year, and 5-year). Note that index funds are expected to slightly underperform their benchmarks because of fund administration fees.

Fund News:

Representatives from Fidelity attended the Investment Sub-Committee meeting and presented a 2nd Quarter market overview, core fund performance update, and year end review. Recent management changes to the Fidelity Freedom funds should not affect the performance of the lifestyle funds. The Investment Sub-Committee marked **Dividend Growth (FDGFX), Blue Chip Growth (FBGRX),** and the **Fidelity Freedom Funds** as underperforming for the quarter. These funds started to turn around in the 2nd quarter, but their 3-year and 5-year performance figures are still sub par.



Sparb Collins Executive Director (701) 328-3900 1-800-803-7377

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Memorandum

TO: PERS Board

FROM: Deb Knudsen

DATE: September 12, 2007

SUBJECT: Monthly LASR Update

Attached is the monthly LASR report received from L. R. Wechsler, Ltd. Staff has been working to secure a performance bond with Sagitec during the month of August, which will be discussed under the agenda item of that name. In addition, staff has been working on the Post Implementation Report required by ITD and will provide that for you at October's board meeting.



North Dakota Public Employees Retirement System

<u>Legacy Application System Review Project</u> Monthly Status Report – August 31, 2007

Activities and tasks accomplished this reporting period

- Procurement Activities
 - Various calls, discussions and emails as necessary regarding performance bond, alternatives to same, and with peer retirement systems did is similar circumstances.
 - o Presented expectations for implementation to the board.
 - o Participated in "lessons learned" session.

Activities planned for the next month

- Procurement Activities
 - o None
- General
 - o Prepare for transition to implementation activities starting 10/1.

Problems Encountered this Period

None

Reconciliation of Progress

None

Problems Anticipated Next Period

None



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Memorandum

TO: NDPERS Board

FROM: Sharon Schiermeister

DATE: September 13, 2007

SUBJECT: Project Charter

We are starting to move forward with the initiation phase for our business system replacement project. As part of that phase, we are required to complete a Project Charter. The purpose of the charter is to provide authority to establish the project and broadly define its purpose, goals and objectives. The charter also documents the project's mission, history, and background, and lists the benefits to be realized as a result of implementing the new system.

Attached for your review is the Project Charter for the Integrated Benefits Administration System. The Charter is being provided to you for informational purposes only; no Board action is required.

Attachment

PROJECT CHARTER

Project Name: Integrated Benefits Administration System

Agency: North Dakota Public Employees Retirement System

Business Unit/Program Area: NDPERS

Project Sponsor: Sparb Collins

Project Manager: Sharon Schiermeister

Project Background:

The application system that NDPERS currently utilizes has been in use for over thirty (30) years. Consequently as the system has had to adapt to changes it has become increasingly complex and very difficult to modify. NDPERS intends to implement a new integrated benefits administration solution that will fill the business needs of the departments and staff of NDPERS, as well as the needs of its customers. This implementation is based upon a feasibility study NDPERS conducted in the first half of 2006 and the RFP that resulted from the study, done in conjunction with L.R. Wechsler, Limited (LRWL) in the fall of 2006. Response to the RFP was evaluated by the consultant (LRWL) and NDPERS staff. Sagitec Solutions was selected as the vendor for the project. The project is set to start 10/1/2007.

Project Scope

NDPERS new benefits administration system will be rich in Web-enabled self-service functionality, providing ease of use not only to NDPERS users, but also to members, retirees, beneficiaries, other plan participants, 3rd party vendors, and employers. The solution will provide web enabled self service capabilities to members and retirees. In addition, all functionality will be available to each of the plans administered by NDPERS as appropriate for the plan (e.g., handling of member and employer payments and receipts and refunds of over payments, correspondence generations, imaging, maintenance of address information, etc.)

The functional requirements are broken down into the following categories:

- 1. Audit and Security
- 2. Disability and Appeals
- 3. Dual Membership
- 4. Return to Work
- 5. Member/Beneficiary
- 6. Enrollment
- 7. Estimates
- 8. Death
- 9. Benefit Calculations
- 10. Employer Reporting/Accounting
- 11. General Reporting and Query
- 12. Power of Attorney / Guardian
- 13. Court Order / QDRO
- 14. Purchase of Service
- 15. Pension Payments
- 16. Tax Reporting
- 17. Imaging and Workflow
- 18. Call Center
- 19. Refunds
- 20. Activity Tracking and Counseling
- 21. Membership / Participant Statements

PROJECT CHARTER

- 22. Funds Management
- 23. Global and Miscellaneous
- 24. Group Insurance
- 25. Flexible Compensation (Flex-comp)
- 26. Retiree Health Insurance Credit (RHIC)
- 27. Defined Contribution (DC)
- 28. TIAA-CREF
- 29. Deferred Compensation

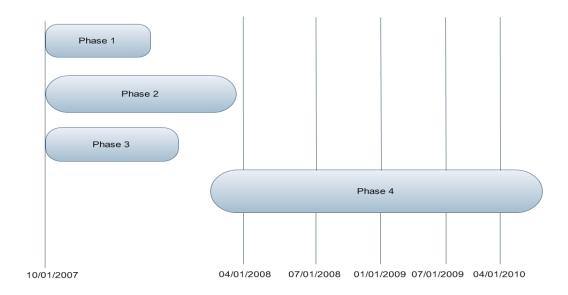
Project Objectives

Objective 1: Complete the project on or under budget with the full scope completed.

Measurement: The appropriated budget for the project is \$9,594,000.

Objective 2: Complete the project on schedule with the full scope completed. The project will be implemented using phased roll-outs.

Project Timeline for Phases



Measurement: The project is scheduled to be completed by September 30, 2010.

Objective 3: Transition to the new system without interrupting operations so that the transition is transparent to the membership.

Measurement:

- Maintain at least the same level of customer service satisfaction ratings as measured on the report cards
- Continue processing monthly retirement payments, benefit enrollments, new retirements, refund requests, insurance premiums, retirement contributions and deferred comp contributions within timeframes currently in place

PROJECT CHARTER

Objective 4: The new system will need to be adaptable to future benefit changes and requirements.

Measurement: Within 6 months after the system is fully implemented, NDPERS staff will have the training and experience to make routine changes to the system, such as parameters, business rules and other table driven elements.

Objective 5: Get membership to use web based self-service functionality to change personal information (such as address, designation of beneficiary) freeing up staff to handle more complex requests.

Measurement: 10% of such transactions will be handled via Self-Service within 6 months; 50% will be handled via Self-Service within 2 years.

Objective 6: Get employers to use web based self-service functionality for enrollments, terminations, changes in status and payroll reporting, freeing up staff to handle exceptions, rather than normal processing.

Measurement: Employers representing 80% of the members will be handled via self-service within 6 months of go-live.

Objective 7: Capture the institutional knowledge of NDPERS in the business rules of the system or other documentation related to the project.

Measurement: At go-live, the business rules for the following processes will be captured in the new business system, including documentation on exception processing: eligibility, enrollments, terminations, refunds/rollovers, retirements, deaths, service purchases, employer reporting, benefit estimates, court orders, disabilities.

Objective 8: Reduce the number of business function spreadsheets currently used by staff by integrating information into the new system.

Measurement: Eliminate 50% of the spreadsheets within 3 months of go-live; 80% within 6 months.

Objective 9: Improve integration with vendors (insurance carriers, deferred comp providers, PeopleSoft payroll) to reduce duplicate data entry and the transfer of paper.

Measurement:

- PeopleSoft payroll: Information such as address changes and benefit enrollments will only need to be entered once, instead of multiple times (NDPERS, employees, employers)
- Insurance, retirement and deferred comp vendors: Information such as address changes and benefit enrollments/changes will only need to be entered once, instead of multiple times (NDPERS, vendor)

Objective 10: All benefit plans are integrated on the new system.

Measurement: At go-live, all benefit plans, with the exception of FlexComp claims processing, will be integrated on the new system.

Required Resources:

	<u>Hours</u>
Sagitec:	
Rick Deshler	102
Rajendra Kathait	234
Albano Lima	89
Stephanie Deshler	183
Satya Ganti	384
Ranjith Kotcherlakota	148

PROJECT CHARTER

Bob Bilbrey Offsite staff	48 140
LRWL: Anne Bahr	157
NDPERS:	
Sharon Schiermeister	157
Ron Gilliam	217
Sharmain Dschaak	214
Bryan Reinhardt	25
NDPERS SME (Accounting, Administrative Services,	256
Benefits, Internal Audit, IT, Research & Planning)	
ITD:	
ITD SME	442

Constraints:

NDPERS staffing levels are fixed for the duration of the project and staff will perform current duties as well as system replacement project work.

NDPERS institutional knowledge is concentrated in a handful of staff that is critical to the outcome of the project.

Project is scheduled to end 09/30/2010. This project end date provides sufficient time for NDPERS to move off ITD's mainframe. As part of the ITD mainframe migration project, NDPERS must be off the mainframe by early 2011.

The appropriated budget for the project is \$9,594,000.

Assumptions:

The project start date will be October 1, 2007.

The NDPERS Board and State government will support the project and allocate the necessary resources for its success.

NDPERS staff will be able to devote all the time & resources as needed for the project.

NDPERS will have no turnover in staff with key institutional knowledge and in general, there will be little turnover for the agency during the project.

ITD will be able to provide guidance and services as needed.

Appropriation authority approved in the 07-09 biennium will be carried over to 09-11 biennium to complete the project

Key LRWL and Sagitec staff will be available throughout the project and will remain employed on the project until its successful completion.

NDPERS will be able to continue to provide the current level of services to its membership during the project.

The benefit programs currently administered by NDPERS will not be changed significantly during the project as a result of federal or state legislation.

Existing support systems will remain in place during the duration of the project.

No extraordinary situation will arise that will affect the continuity of NDPERS programs, service levels, staffing, financial resources, vendors, consultants or governance/administrative structure.

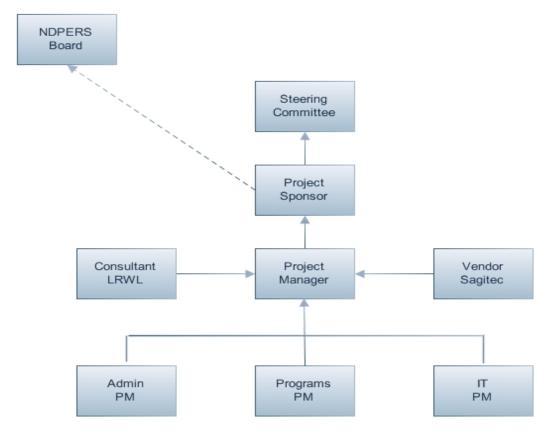
PROJECT CHARTER

In the event a change happens in the project, the order of priority for making decisions will be Budget, Schedule, Quality, Scope.

No material system requirements were missed in the Request for Proposal.

Project Authority:

The NDPERS Board has the ultimate authority for NDPERS and the project. Any major changes to scope, budget or schedule must be approved by the Board. The project will be governed by a Steering Committee. The role of the Steering Committee will be to make major project decisions that are not able to be resolved by the Project Sponsor or Project Manager. The Steering Committee can make compromises and changes as long as they fall within the constraints of the project budget. Sparb Collins will be the Project Sponsor. His role will include reporting to the NDPERS Board on the status of the project and making project decisions that are not able to be resolved by the Project Manager. The Project Manager will be Sharon Schiermeister. She will have the authority to make the day to day decisions on the project that fall within the approved budget, scope and schedule. She will also have the authority to approve changes in work efforts of the vendor or consultant that are not considered material in nature and are within the approved budget. She will be responsible for approving and authorizing all payments to the vendor and consultant. There will be 3 assistant project managers. Bryan Reinhardt will be in charge of project administration. His role will consist of coordinating all the project reporting, budgeting and schedule monitoring with Sagitec, LRWL and ITD. Sharmain Dschaak will be in charge of benefits. Her role will consist of coordinating all the benefit program administration components of the project with Sagitec and PERS SMEs. Ron Gilliam will be in charge of IT. His role will consist of coordinating all the technical components of the project with Sagitec, ITD and internal IT staff. Following is the organizational chart for the project team.



PROJECT CHARTER

Optional Sections:

Budget:

A high-level project budget is defined below and is based upon the appropriation authority approved for the 2007-09 biennium. The Project Manager has authority to approve changes in work efforts of the vendor or consultant that fall within the approved budget. Any change order that will require a transfer from contingency will need to be approved by the project sponsor. A more detailed budget will be defined during planning that will also include the costs for PERS staff time.

 Vendor
 \$7,678,360

 Consultant
 \$1,000,000

 Hardware/software/ITD hosting
 \$ 185,000

 Contingency
 \$ 730,640

Total \$9,594,000

Potential Project Risks:

Poor User Involvement/Resistance to Change

Staff Conflicts and Understaffing/Turnover

Vague Requirements and Unclear Direction

Budgeting Problems/Hidden Costs

Poor System Architecture and Integration

Project Slip and Failure to Promptly Address Problems

Availability of ITD staff

Vendor staff turnover

Staff burnout

Project Charter Approval	
Project Sponsor Name: Sparb Collins	Action: Approve: 🛛 Reject: 🗌

Date: _____

Project Sponsor Signature: ______



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Memorandum

TO: PERS Board

FROM: Sparb

DATE: September 13, 2007

SUBJECT: Performance Bond (Sagitec)

BACKGROUND

In developing our RFP for this project we included a requirement that the successful vendor provide a performance bond equal to 80% of the project. In response to questions, requests by the vendors and other information we reduced that requirement to 20% during the solicitation process. In considering that reduction we also noted that we had a 20% holdback on the project. We also noted the purpose of the bond from the start was to transfer some of the risk for the project to the vendor and not to insure the entire cost of the project. It was felt that by getting the vendor to assume some risk it would create an incentive for them to assure a positive outcome for the project. We also noted that around the country only about half of the IT projects had performance bonds and that in ND of the six projects surveyed 2 didn't have a performance bond, two had a 10% bonds, one had a 20% bond, and for one we were not able to get the information.

PERFORMANCE BOND

In our contract with Sagitec it states the following relating to a performance bond:

Performance Bond. VENDOR shall provide a performance bond, in a form acceptable to NDPERS, and underwritten by a firm acceptable to NDPERS in the amount of one million, four hundred and fourteen thousand, six hundred and seventy two dollars (\$1,414,672.00), twenty percent (20%) of the total cost of the project services, in effect at the Project Start Date and continuing until the date of the Certification of Completion for the System as a pledge against its commitments to deliver, install, maintain, and warrantee the System.

Since signing the contract Sagitec has been in contact with bond companies to secure the performance bond. They indicated to those companies, as they did to us, that it was their intent to fully securitize the bond (they would put up the full amount in cash to guarantee the bond). The bond companies have indicated they are willing to provide the bond to Sagitec;

Performance Bond Page 2 September 13, 2007

however, their methodology for IT project bonds is they are offered for one year and then renewed for subsequent years. This means the bond company would provide a bond for year one, then renew it for year two and renew it again for year three. In discussing this with a bond broker it was indicated that these renewals are fairly routine and this is the standard method on IT projects and for many construction projects.

However as staff has considered this approach and discussed it with Sagitec we do note that there is no guarantee of such a renewal. For example the company could decide after the first year that they are no longer going to underwrite IT projects and not renew the bond for a reason that has nothing to do with our project.

Therefore based upon the above we note that Sagitec can provide us a performance bond that is consistent with the types of bonds generally offered in the industry however we do note that such a bond does have a risk of non renewal.

The question for us at this point is whether or not such a bond is acceptable to PERS in meeting the need for a performance bond for the 3 years of the project. If the answer to this question is "yes", then there is no need to discuss the issue further, the proposed performance bond will suffice. However, if the answer to this question is "no", then the board has to decide how to address the inadequacy of the proposed performance bond. The first option is to consider the inability of Sagitec to secure an acceptable performance bond as a basis to terminate the contract. Since this option is not likely to be beneficial to either party, the board may also choose to negotiate an alternative that mitigates the risk noted above.

ALTERNATIVES

Once it was determined what the risk was with the performance bond we began discussion on alternatives that would mitigate that risk. Two options were identified:

Option 1 - Bank Letter of Credit

One option is a letter of credit. This option is available because Sagitec is going to fully securitize the 1.4 million. In many cases the vendor puts up a percentage of the bond amount. Since Sagitec is going to deposit this amount with the bond company they note that as an alternative they would be willing to deposit it in the bank and give PERS a letter of credit that we could call based upon the following proposed amendment to the original contract:

Performance Bond Page 3 September 13, 2007

Amendment

This Amendment is entered into effective August ___, 2007 by and between North Dakota Public Employees Retirement System ("NDPERS") and Sagitec Solutions LLC ("Sagitec").

Recitals:

NDPERS and Sagitec entered into a System Agreement dated July ___, 2007 (the "Agreement"), which provides for Sagitec to obtain a performance bond as a form of financial assurance to NDPERS. NDPERS and Sagitec wish to amend the Agreement to substitute an alternative form of financial assurance to NDPERS.

Now, therefore, the parties agree as follows:

1. Section 20.19 of the Agreement is amended to read as follows:

Letter of Credit. VENDOR will obtain a letter of credit in favor of NDPERS in the amount of one million, four hundred and fourteen thousand, six hundred and seventy two dollars (\$1,414,672.00), twenty percent (20%) of the total cost of the project, in effect at the Project Start Date and continuing until the date of the Certification of Completion for the System. The letter of credit will be terminable by VENDOR at any time after the earlier to occur of (i) date of the Certification of Completion for the System, or (ii) 60 days after termination of this Agreement for any reason. The letter of credit will provide that NDPERS may draw on the available balance by presenting a letter executed by an officer of NDPERS that asserts VENDOR is in material default of one or more of VENDOR's obligations under this Agreement and that the asserted default has not been remedied within thirty (30) days after proper notice of the default to VENDOR. NDPERS may not draw on the letter of credit (i) after the date of the Certification of Completion for the System, (ii) until the date thirty (30) days after notice to VENDOR that VENDOR is in material default under that Agreement and then only if VENDOR has not remedied that default as of that date, or (iii) in an amount that exceeds the actual damages incurred as a result of the VENDOR default that is the subject of NDPERS notice. VENDOR's provision of the letter of credit under this Section 20.19 does not constitute a waiver of any claim that VENDOR is not in material default under this Agreement, or that the damages claimed by NDPERS for any actual VENDOR default exceeds the actual damages incurred by NDPERS for that default. VENDOR reserves the right to dispute such matters and to seek a refund of some or any portion of any NDPERS draws on the letter of credit.

The above letter of credit provides the same type of coverage as the performance bond and would do it for the 36 months instead of 12 months with renewals. The difference is in how the claim is made. As noted above, the bank would distribute the funds to us upon a demand made pursuant to the above provisions. We would then hold the money and Sagitec could pursue getting the funds returned by filing an action in court if they disagreed with our claim to the funds. The claims process is very straightforward with this method. With a performance bond PERS would file a claim with the bond company who would review and make a determination as to the claims validity and then either deny the claim, pay the claim or pay a portion of the claim. To the extent that either party is unhappy with the determination it can then be appealed into the court system.

Option 2- Hybrid Coverage

We would agree that Sagitec would take the performance bond as discussed above and requested in the RFP and the contract. We would further modify the contract to provide that if Sagitec was unable to maintain coverage in the form of a performance bond (based on

Performance Bond Page 4 September 13, 2007

circumstances beyond their control) Sagitec would take out a letter of credit covering the entire period of the project. In order to allow Sagitec to finance the letter of credit, PERS would have to release the surety company from its liability for the project (thereby releasing Sagitec's collateral). By requiring the letter of credit to cover retroactively to the start date of the project, the hybrid plan would ensure that there would be no gap in coverage. In establishing this agreement we would insure some type of coverage during the entire project based upon these terms. The contract amendment for this option would be:

Amendment

This Amendment is entered into effective August ___, 2007 by and between North Dakota Public Employees Retirement System ("NDPERS") and Sagitec Solutions LLC ("Sagitec").

Recitals:

NDPERS and Sagitec entered into a System Agreement dated July ___, 2007 (the "Agreement"), which provides for Sagitec to obtain a performance bond as a form of financial assurance to NDPERS. NDPERS and Sagitec wish to amend the Agreement to substitute an alternative form of financial assurance to NDPERS.

Now, therefore, the parties agree as follows:

1. Section 20.19 of the Agreement is amended to read as follows:

Performance Bond. VENDOR shall provide a performance bond, in a form acceptable to NDPERS, and underwritten by a firm acceptable to NDPERS in the amount of one million, four hundred and fourteen thousand, six hundred and seventy two dollars (\$1,414,672.00), twenty percent (20%) of the total cost of the project, in effect at the Project Start Date and continuing until the date of the Certification of Completion for the System as a pledge against its commitments to deliver, install, maintain, and warrantee the System.

If at anytime it becomes impossible or impracticable for VENDOR, through circumstances beyond their control, to maintain a performance bond in the amount stated above, VENDOR will immediately obtain a letter of credit in favor of NDPERS in the amount of one million, four hundred and fourteen thousand, six hundred and seventy two dollars (\$1,414,672.00), twenty percent (20%) of the total cost of the project, covering claims based on conduct occurring between the Project Start Date and continuing until the date of the Certification of Completion for the System. In order to facilitate the financial ability of VENDOR to secure a letter of credit covering claims based on conduct occurring between the Project Start Date and continuing until the date of the Certification of Completion for the System, NDPERS will release liability of the Surety securing the Performance Bond. The letter of credit will be terminable by VENDOR at any time after the earlier to occur of (i) date of the Certification of Completion for the System, or (ii) 60 days after termination of this Agreement for any reason. The letter of credit will provide that NDPERS may draw on the available balance by presenting a letter executed by an officer of NDPERS that asserts VENDOR is in material default of one or more of VENDOR's obligations under this Agreement and that the asserted default has not been remedied within thirty (30) days after proper notice of the default to VENDOR. NDPERS may not draw on the letter of credit (i) after the date of the Certification of Completion for the System, (ii) until the date thirty (30) days after notice to VENDOR that VENDOR is in material default under that Agreement and then only if VENDOR has not remedied that default as of that date, or (iii) in an amount that exceeds the actual damages incurred as a result of the VENDOR default that is the subject of NDPERS notice. VENDOR's provision of the letter of credit under this Section 20.19 does not constitute a waiver of any claim that VENDOR is not in material default under this Agreement, or that the damages claimed by NDPERS for any actual VENDOR default exceeds the actual damages incurred by NDPERS for that default. VENDOR reserves the right to dispute such matters and to seek a refund of some or any portion of any NDPERS draws on the letter of credit.

Performance Bond Page 5 September 13, 2007

The primary advantage to this option is that it is consistent with the RFP request and the contract.

Board Action Requested:

Determine if the proposed method for the performance bond is acceptable or if we should ask for one of the options, and if so, which option.



North Dakota Public Employees Retirement System 400 East Broadway, Suite 505 ● Box 1657 Bismarck, North Dakota 58502-1657

Sparb Collins Executive Director (701) 328-3900 1-800-803-7377

FAX: (701) 328-3920 • EMAIL: NDPERS-info@nd.gov • www.nd.gov/ndpers

Memorandum

TO: PERS Board

FROM: Sparb & Deb

DATE: September 12, 2007

SUBJECT: Wechsler (LRWL) Contract

At that last meeting the Board approved retaining LRWL to provide oversight project management and quality assurance. Attached for your approval is a contract amendment retaining them for these services. Please note we have included performance standards in the contract that include:

- Holding back 35% of time charges each month until the quarterly reports are done and approved
- Holding back 5% of time charges until the project is completed

In addition, the contract allows us to adjust efforts based upon a review at the end of each quarter.

Staff recommendation

To approve the attached contract

Board Action Requested

To approve the attached contract



North Dakota Public Employees Retirement System 400 East Broadway, Suite 505 ● Box 1657 Bismarck, North Dakota 58502-1657

Sparb CollinsExecutive Director
(701) 328-3900
1-800-803-7377

FAX: (701) 328-3920 • EMAIL: NDPERS-info@nd.gov • www.nd.gov/ndpers

Memorandum

TO: PERS Board

FROM: Deb & Sparb

DATE: September 12, 2007

SUBJECT: Administrative Rules

Attached are the proposed administrative rules developed by staff for your final review. The proposed rules resulted in response to legislation that was passed since the last time the rules were promulgated as well as to reflect Board policy or clarify or update existing language. A draft of the notice of hearing and summary of rules is also included. As indicated last month, Aaron Webb advised us that NDPERS does not need to complete a Regulatory Analysis or a Takings Assessment. However, we did conduct a Small Entity Regulatory Analysis which is attached for your review. Please note that the Highway Patrol is exempt from the above analysis requirements, so was not included in the review.

Please review these rules and provide direction to staff regarding your approval and authorization to continue with the promulgation process. Subject to your approval, notice of the hearing will be placed in the newspapers and the rules will be sent to the Legislative Council.

Please contact me if you have questions or concerns. Staff will also be available at the Board meeting to address any questions.

Take notice that the North Dakota Public Employees Retirement System will hold a public hearing to address proposed additions, amendments and deletions to existing rules in the following chapters in the North Dakota Administrative Code: 71-01 General Administration 71-02 Public Employees Retirement System, 71-03 Uniform Group Insurance Program, 71-05 Highway Patrol Retirement System, 71-06 Retiree Health Insurance Credit 71-08 Defined Contribution Retirement Plan. The purpose of the proposed revisions is to implement new statutory provisions and update existing language. Proposed revisions are summarized below. The hearing will be held at 11:00 a.m. on November 21, 2007 in the Peace Garden room at the State Capitol, 600 East Boulevard Avenue, Bismarck, North Dakota. The hearing will continue until 12:00 p.m. or until no further testimony is offered, whichever occurs last. The proposed rule changes are not expected to have an impact on the regulated community in excess of \$50,000. The proposed rules may be viewed online at www.state.nd.us/ndpers or at the NDPERS office at the following location:

North Dakota Public Employees Retirement System 400 E Broadway, Suite 505 Box 1657 Bismarck, ND 58502

Written comments should be submitted to the above address and will be accepted from November 21, 2007 through December 10, 2007. A copy of the proposed rules may be obtained by accessing them on the PERS website at www.state.nd.us/ndpers or by calling the North Dakota Public Employees Retirement System at 701-328-3900. If you plan to attend the public hearing and will need special facilities or assistance relating to a disability, please contact the Public Employees Retirement System at the above address or telephone number at least three business days prior to the public hearing.

The purposes of the proposed changes are as follows:

- **71-01-02 Election Rules.** Provides an amendment to the rules to add provision defining board's procedures should no candidates run for a vacancy and clarifying and updating election process and terminology.
- **71-02-03-06 Conversion of Sick Leave.** Provides an amendment to existing rules to change the payment due date for sick leave purchase.
- **71-02-03-07 Employer purchase of service credit or sick leave program.** Amends existing rules in relation to employer purchase programs pertaining to NDCC 54-52.26.
- **71-02-04-03.1 Payment date Retirement benefits for late retirees.** Provides an amendment to existing rules to provide for the new deferred normal retirement option.
- **71-02-04-04 Optional benefits.** Provides an amendment to the existing rules to clarify that in the event of a divorce, a retiree's joint and survivor option in the Defined Benefit retirement plan must be changed back to the single life form of benefit.
- **71-02-04-10 Erroneous payment of benefits Overpayments.** Provides an amendment that incorporates existing board policy into formal rule.

- **71-02-04-11 Erroneous payment of benefits Underpayments.** Provides for an amendment that makes provision for payment of interest and procedure for deceased annuitants.
- **71-02-05-07 Optional benefits.** Provides an amendment to the existing rules to clarify that in the event of a divorce, a retiree's joint and survivor option in the Defined Benefit retirement disability plan must be changed back to the single life form of benefit.
- 71-02-06-04 Adjustment for bonuses, profit sharing and contributions paid in a month other than month earned. Provides an amendment restricting payment of bonuses for future months.
- **71-03-01-02 Bid Specifications** Adds a provision for bid solicitations for the Medicare prescription drug program (Part D)
- **71-03-05-02 Retiree billing.** An amendment to remove old language regarding billing timeframes and reflecting timeframes required for compliance with Medicare Part D.
- **71-03-05-03** Late Premium for retirees. Repeals previously established rules for late premiums that are not in compliance with Medicare Part D.
- **71-03-05-08** Erroneous payment of premiums Underpayments. Provides an amendment to establish provisions for underpayment of group insurance premiums.
- 71-03-05-10 Determining amount of premium overpayments and underpayments.

 Provides an amendment adding the group vision plan to this section and provisions for overpayments and underpayments in the vision plan.
- 71-03-07-06 Requirements for enrolling temporary employees and paid members of political subdivision boards, commissions, or associations. Provides for an amendment to existing rule to remove the restriction on political subdivisions paying for health insurance coverage for a temporary/part-time employee.
- **71-05-02-04 Optional Benefits.** Provides an amendment to the existing rules to clarify that in the event of a divorce, a retiree's joint and survivor option in the Highway Patrol retirement disability plan must be changed back to the normal form of benefit
- **71-05-04-08 Conversion of sick leave.** Provides an amendment to existing rules to change the payment due date for sick leave purchase in the Highway Patrol Retirement System.
- **71-05-04-09** Employer purchase of service credit or sick leave. Provides an amendment to employer purchase rules under the Highway Patrol retirement system pursuant to 39-03.1-28.
- **71-05-03.1 Payment date Retirement benefits for late retirees.**_Creates a new section to make provision for the new Deferred Normal Retirement Option.

- **71-05-04 Optional benefits.** Provides an amendment to the existing rules to clarify that in the event of a divorce, a retiree's joint and survivor option in the Highway Patrol retirement plan must be changed back to the normal form of benefit.
- **71-05-05-11** Erroneous payment of benefits Underpayments. Provides for an amendment that makes provision for payment of interest and procedure for deceased annuitants.
- 71-06-01-03 For retirees receiving more than one benefit entitled to retiree health insurance credit. Amends existing rule to remove the restrictions on consolidating spouses retiree health insurance credit.
- **71-06-01-07 Optional benefits.** Provides an amendment to existing rules to clarify that in the event of a divorce, a retiree's joint & survivor option in the Retiree Health Insurance Credit program will be changed back to the single life (standard) option.
- 71-08-04-09 Employer purchase of service credit or sick leave program. Provides an amendment to Defined Contribution Plan rules as they relate to additional employer contributions being made to the Plan and makes provisions similar to the defined benefit plan.

Last Rev. 9/12/2007

CHAPTER 71-01-02 ELECTION RULES

Section	
71-01-02-01	Election Committee
71-01-02-02	Eligible Voters
71-01-02-03	Candidate Eligibility
71-01-02-04	Election Notification
71-01-02-05	Petition Format
71-01-02-06	Procedure for Completing and Filing Petitions
71-01-02-07	Election Ballots
71-01-02-08	Election
71-01-02-09	Canvassing Rules
71-01-02-10	Notification of Election Results
71-01-02-11	Special Elections
71-01-02-12	Penalties

71-01-02-01. Election committee.

- 1. The retirement board must appoint a committee of three, one of whom will be designated as chair, from its membership to oversee elections to the board.
- 2. Committee members, or their authorized representatives, are responsible for reviewing the election rules for the retirement board membership of the North Dakota public employees retirement system, for counting ballots, and for reporting the election results to the board.
- 3. Committee members will be appointed at the February meeting of the North Dakota public employees retirement system board to serve until the retirement board meeting for the following February.

History: Effective April 1, 1992. General Authority: NDCC 54-52-04 Law Implemented: NDCC 54-52-03

71-01-02-02. Eligible voters.

1. All active employees, eligible to serve as elected members of the board in accordance with N.D.C.C. §54-52-03(4), of the state of North Dakota and political subdivisions which participate in the North Dakota public employees retirement system are eligible to cast one vote for each active member vacancy on the retirement board.

- 2. All persons receiving retirement benefits or who are eligible to receive deferred vested retirement benefits are eligible to cast one vote for a retiree member vacancy on the retirement board.
- 3. Persons participating in the health insurance program but not in the retirement system are ineligible to cast votes in retirement board elections.

History: Effective April 1, 1992; amended effective July 1, 1994.

General Authority: NDCC 54-52-04, 54-52-17(5)

Law Implemented: NDCC 54-52-03

71-01-02-03. Candidate eligibility.

- 1. Any active employee, eligible to serve as an elected member of the board in accordance with N.D.C.C. §54-52-03(4), of a department of the state of North Dakota, or a political subdivision, who participates in the North Dakota public employees retirement system may become a candidate for election to the board. A department or political subdivision may not be represented by more than one elected member.
- 2. Any person, as of the first day of July April fifteenth of the election year, who is receiving a has accepted a retirement allowance benefit or who is eligible to receive deferred vested retirement benefits, may become a candidate for the retiree member to the board.

History: Effective April 1, 1992; amended effective July 1, 1994; July 1, 2000.

General Authority: NDCC 54-52-04, 54-52-17(5)

Law Implemented: NDCC 54-52-03

71-01-02-04. Election notification.

- 1. The director of the North Dakota public employees retirement system shall ensure that notification of an active member vacancy and the election is given to all employees through publication of a notice in the North Dakota public employees retirement system newsletter and any other method of communication as deemed appropriate by the director at least three weeks in advance of a filing date for nomination petitions. The director shall ensure that notification of the vacancy of a retiree member and the election is given to all persons who have accepted a receiving retirement benefits allowance or who are eligible to receive deferred vested retirement benefits through publication of a notice in the North Dakota public employees retirement system newsletter and any other method of communication as deemed appropriate by the director at least three weeks in advance of a filing date for nomination petitions.
- 2. The notice must include a statement of voter and candidate eligibility, the candidate nomination requirements, the date of election, and where to obtain the nomination petitions for filing.

History: Effective April 1, 1992; amended effective July 1, 2000.

General Authority: NDCC 54-52-04 **Law Implemented:** NDCC 54-52-03

71-01-02-05. Petition format.

1. The nomination petition for an active member on the board must include the signatures of at least one hundred active eligible voters., as determined by the current North Dakota public employees retirement system's membership role and their mailing addresses. The nomination petition for the retiree member on the board must include the signature of at least twenty-five persons receiving a retirement allowance or who are eligible to receive a deferred vested retirement benefits, allowance. as determined by North Dakota public employees retirement system's retirement membership role and their mailing addresses.

2. The nomination petition must in	clude the following statement: "We, the
petitioners, who are members of t	he North Dakota Public Employees Retirement
System, nominate	for election to the North Dakota Public Employees
Retirement System board."	

- 3. The nomination petition must include a certification by the candidate, as follows: "I accept the nomination and if elected will fulfill the responsibilities as a member of the North Dakota Public Employees Retirement System board."
- 4. If there is not room for the required signatures on a single nomination petition, additional petitions may be used. Candidates may reproduce, at their own expense, blank nomination petitions that meet the format requirements without requesting additional petitions from the North Dakota public employees retirement system. All nomination petitions used must be certified and signed by the nominee when submitted to the North Dakota public employees retirement system office.

History: Effective April 1, 1992; amended effective May 1, 2004.

General Authority: NDCC 54-52-04 **Law Implemented:** NDCC 54-52-03

71-01-02-06. Procedure for completing and filing petitions.

- 1. No public service or funds period of time, on which an employee is entitled to receive wages or salary from the state of North Dakota or a political subdivision, may be used by the candidates to promote their election except as permitted by the employing agency. In addition, no public funds may be used for the purpose of promoting an election unless permitted by the employing agency.
- 2. Nomination petitions must be filed with the North Dakota public employees retirement system no later than four p.m. on the first Friday of May and must be validated by the

election committee or their representatives following the filing deadline and prior to ballots being distributed.

- 3. Nomination petitions not furnished by the North Dakota public employees retirement system will be accepted provided they are submitted in the prescribed form.
- 4. A candidate may withdraw that candidate's nomination petition up until the time one week prior to the date the ballots are printed. The notice must be in writing and duly witnessed.
- 5. Nomination petitions may be accompanied by a three-inch [76.20-millimeter] by five-inch [127.00-millimeter] photograph of the candidate and a narrative not to exceed two hundred words. The narrative must be signed to be valid. The absence of a photo or narrative will not invalidate the candidate's eligibility, but only the candidate's name will then appear with the other candidates' information that accompanies the ballots.
- 6. The retirement board or its representative reserves the right to edit lengthy narratives to the two hundred word limit. Board decisions are final.
- 7. The board or its representative shall inform all candidates of the validation of their candidacy. by first-class United States mail.

History: Effective April 1, 1992; amended effective July 1, 2000.

General Authority: NDCC 54-52-04 **Law Implemented:** NDCC 54-52-03

71-01-02-07. Election ballots.

- 1. Ballots must be prepared by the North Dakota public employees retirement system staff in accordance with the election rules.
- 2. Ballots must be printed on postcards with return postage supplied and will be mailed to all eligible voters with a narrative on candidates who have provided that information. to the North Dakota public employees retirement system.
- 3. Ballots must first be arranged with the names of each candidate on the ballot, in an order determined by lot. In printing the ballots, the position of the names must be changed as many times as there are candidates' names on the ballot. The change must be accomplished by taking the name at the head of the ballot and placing it at the bottom and moving the name that was second before the change to the head of the names on the ballot. The same number of ballots must be printed after each change of position so as to result in an equal number of ballots with each candidate's name at the head of the ballot. The ballot must provide a space for write-in candidates.
- 4. If there is only one candidate for an election, the election will nonetheless be conducted in compliance with the provisions of this chapter.

5. If there is no candidate, the board whall solicit al least two persons from the eligible pool of candidates to run for election to the board. The election will then be conducted in compliance with the provisions of this chapter.

History: Effective April 1, 1992; amended effective July 1, 2000.

General Authority: NDCC 54-52-04 **Law Implemented:** NDCC 54-52-03

71-01-02-08. Election.

- 1. Ballots must be mailed by first-class United States mail to the home address of all eligible active voters for an election of an active board member, or <u>all</u> eligible retired voters for an election of a retired board member, who are actively at work or retired as determined by the North Dakota public employees retirement system's membership roles as of April fifteenth in the year of the election.
- 2. North Dakota public employees retirement system members who become eligible to vote after April fifteenth, but before the deadline for the receipt of ballots, may be issued a special election ballot by making their request for such ballot in writing to the North Dakota public employees retirement system office no later than the second Monday in June.
- 3. Ballots must be returned to the North Dakota public employees retirement system office no later than the close of business on the Friday immediately preceding the third Monday in June.
- 4. The candidate receiving the highest number of votes must be considered elected. When there is more than one active member board vacancy to be filled, the candidate with the second highest number of votes must be considered elected. If there are three active member board vacancies to be filled, the person with the third highest number of votes must be considered elected.

History: Effective April 1, 1992. General Authority: NDCC 54-52-04 Law Implemented: NDCC 54-52-03

71-01-02-09. Canvassing rules.

- 1. Ballot counting by election committee members or their authorized representatives will commence at nine a.m. on the third Monday of June and will continue until complete.
- 2. Each candidate may have one overseer present at the canvassing who may examine each ballot as to its sufficiency after the canvassers have completed the canvassing of

all ballots. No overseer may possess a pen, pencil, or other device which could be considered capable of altering a ballot in any manner.

- 3. A candidate may act as his or her overseer. If a candidate wishes to designate a representative to act as his or her overseer, that candidate must provide a written authorization, duly witnessed, to the election committee at the canvassing. An overseer may act on behalf of more than one candidate; however, each person must show the required authorization from each candidate represented.
- 4. The overseer may question the decision of the canvassers regarding a ballot after completion of the canvassing. If questioned, the comments of an overseer will be heard. The canvassers will then vote regarding the acceptability of the ballot with the majority vote ruling.
- 5. A ballot is not valid where the number of votes on the ballot exceeds the number of vacancies in the election. A ballot that does not, in the opinion of a majority of the canvassers, show a clear indication of the voter's intention, may not be counted.
- 6. If the percentage of votes received by the candidate receiving the highest number of votes is less than one percent more than the votes received by the candidate receiving the next highest number of votes, the board shall order a recount.
- 7. Tie votes will be determined by a roll of two dice coin toss. by each of the tied candidates; the successful candidate must have the highest total. If this procedure is necessary, the election committee will establish and notify the tied candidates of the procedure and location for resolving the tie.

History: Effective April 1, 1992. General Authority: NDCC 54-52-04 Law Implemented: NDCC 54-52-03

71-01-02-10. Notification of election results.

- 1. Election results must be presented to the retirement board following the canvassing of votes. Such report must include an itemization of the number of ballots returned, votes cast for each candidate, votes invalidated, and votes not counted due to late receipt.
- 2. All candidates will be notified of the election results by mailing a copy of the election report by first-class United States mail no later than the business day following the June meeting of the retirement board.
- 3. Departments and agencies participating in the North Dakota public employees retirement system will be notified of the election results. by mailing a copy of the election report. In addition, a report of the election results will be included in the North Dakota public employees retirement system newsletter.

History: Effective April 1, 1992. General Authority: NDCC 54-52-04 Law Implemented: NDCC 54-52-03

71-01-02-11. Special elections.

- 1. A special election will be called for by the retirement board in the event of a vacancy resulting from the death, resignation, or termination of North Dakota public employees retirement system membership by any elected board members.
- 2. Special elections must be conducted in accordance with the regular elections rules, except that the board will determine a new election schedule.
- 3. In the case of a special election, the term to be filled is the unexpired portion of the vacant board position.

History: Effective April 1, 1992. General Authority: NDCC 54-52-04 Law Implemented: NDCC 54-52-03

71-01-02-12. Penalties.

A violation of any provision under this chapter may result in one or more of the following penalties, as determined by the board:

- 1. A candidate's petitions may be declared void.
- 2. A candidate's nomination may be declared void.
- 3. A candidate's election may be declared void.
- 4. Within thirty days of beginning an elected member's term in office, the elected member may be removed.

History: Effective July 1, 2000. General Authority: NDCC 54-52-04 Law Implemented: NDCC 54-52-03

CHAPTER 71-02-03 SERVICE CREDIT

Section

71-02-03-01 Service Credit - General Rule

71-02-03-01.1 Noneligible Service Credit

71-02-03-01.2 Service Credit Given for Leave Taken

71-02-03-02 Military Credit [Repealed]

71-02-03-02.1 Purchase of Additional Service Credit and Repurchase of Past Service

71-02-03-02.2 Payment

- 71-02-03-02.3 Delinguent Payment
- 71-02-03-02.4 Crediting Purchased or Repurchased Service
- 71-02-03-02.5 Costs
- 71-02-03-03 Service After Age Sixty-Five [Repealed]
- 71-02-03-04 Cancellation of Credits
- 71-02-03-05 Coordination of Multiple Plan Membership
- 71-02-03-06 Conversion of Sick Leave
- 71-02-03-07 Employer Purchase of Service Credit or Sick Leave Program
- 71-02-03-08 Eligible Sick Leave
- **71-02-03-06.** Conversion of sick leave. To convert unused sick leave to service credit, the member must notify the office, in writing, of the amount of unused sick leave to be converted and the member's employer must confirm the member's unused balance of accumulated sick leave as of the date the member terminates employment. For members transferring from one participating employer to another participating employer without terminating eligible employment, the public employees retirement system will record unused sick leave of a participating member if the new employer certifies that it will not transfer that leave. The certification must include documentation from the previous employer detailing the number of hours of sick leave. The public employees retirement system must receive the certification within sixty days after the member leaves employment with the former employer. One month of service credit must be awarded for each one hundred seventy-three and three-tenths hours of unused accumulated sick leave. The employer and employee contributions rates used to calculate the cost must be the rate of the retirement program of the member at termination.
- 1. After tax payments may be accepted from the member as early as six months prior to termination if the following requirements are met:
- a. A notice of termination or application for monthly benefits form is on file with the public employees retirement system.
- b. A written certification by the member's employer, as to the member's unused balance of accumulated sick leave as of the date the member wishes to begin payment, is on file with the public employees retirement system.
- c. At termination, the sick leave conversion payment must be recalculated using the member's unused balance of accumulated sick leave confirmed by the member's employer, and the member's final average salary as of that date. If there is a difference between the sick leave conversion payment amount and the amount the member has paid, any overpayment must be refunded to the member and any underpayment must be collected from the member by the fifteenth of the month following the month of the member's datewithin sixty days of termination.
- 2. The member's record must be updated with the additional service credit once payment is made in full and the member has terminated employment.

- 3. Pretax rollover or transfer payments may be accepted from the member as early as sixty days prior to termination if the following requirements are met:
- a. A notice of termination or application for monthly benefits form is on file with the public employees retirement system.
- b. A written certification by the member's employer, as to the member's projected unused balance of accumulated sick leave no sooner than sixty days prior to the date of termination, is on file with the public employees retirement system. This certification must also include a certification by the employer of the projected salaries to be reported to the public employees retirement system during the final months of employment.
- c. At termination, the sick leave conversion payment must be recalculated using the member's unused balance of accumulated sick leave confirmed by the member's employer and the member's final average salary as of that date. If there is a difference between the sick leave balance or conversion payment amount and the amount the member has paid, then only the amount of sick leave available as of the termination date will be added to the member's record. The member account balance will be credited with the full amount of funds from the rollover or transfer.
- d. If an underpayment has occurred, then the remaining amount must be collected from the member by the fifteenth of the month following the month of the member's datewithin sixty days of termination.
- e. The retiree health credit portion must be paid as a personal after tax payment.
- 4. The member's record must be updated with the additional service credit once payment is made and the member has terminated employment.

History: Effective June 1, 1996; amended effective April 1, 2002; May 1, 2004;

July 1, 2006.

General Authority: NDCC 54-52-04

Law Implemented: NDCC 54-52-17.8, 54-52-27

71-02-03-07. Employer purchase of service credit or sick leave program. An employer may elect to purchase up to five years of service credit for an employee and purchase an employee's unused sick leave that meets the requirements of section 71-02-03-08. Before offering a purchase program to its employees, the employer must create a program and an employer must document the program in writing and submit a copy to the public employees retirement system. The governing authority of the employer shall also submit to the executive director of the public employees retirement system a letter indicating:

- 1. The program meets all the requirements of the North Dakota Century Code.
- 2. The program meets all applicable federal requirements.
- 3. The employer agrees to remit to the public employees retirement system a lump sum payment of the cost of the purchase upon being billed.
- 4. The employer has not given the employee the option of a cash payment in lieu of the employer purchase.
- 5. The employer shall clearly specify who is eligible for the program and indicate if the program is intended to be permanent or will be for a specific time period only.
- 6. The employer agrees that all purchases for service credit will be based upon actuarial cost as determined by the public employees retirement system and all unused sick leave purchases will be based upon the computation specified in the North Dakota Century Code. The employer also agrees that all purchases will be completed no later than the employee's retirement or sixty days from the date the employer and employee agree to the purchase, whichever comes first.
- 7. The employer agrees that in offering such a program the employer will direct each employee interested in the program to first apply to the employer's authorized agent who will then certify the eligibility of the member, the amount of service credit to be purchased or sick leave to be converted, and send such certification to the public employees retirement system. The employer also agrees that the employer's authorized agent will coordinate the program, authorize all purchases in writing to the public employees retirement system, and be the focal point for communications between the public employees retirement system, the employer, and the employee.
- 8. The employer agrees that for each employee certified to be eligible to have service credit purchased or sick leave converted, the employer will first obtain from the employee authorization for the public employees retirement system to share confidential information with the employer.
- 9. The employer certifies that in offering the program, the employer is making it available to all employees or a specified class of employees on a nondiscriminatory basis.
- 10. The employer agrees to provide information and policies relating to an employer purchase program pursuant to NDCC 54-52-26.

When an employer files the above letter with the public employees retirement system, it may offer the program to its employees. An employer may terminate this program at any time upon the governing authority of the employer sending to the executive director of the public employees retirement system a letter indicating when the program is to be canceled.

History: Effective May 1, 2004; amended effective July 1, 2006.

General Authority: NDCC 54-52-04

Law Implemented: NDCC 54-52-17.4, 54-52-29

CHAPTER 71-02-04 RETIREMENT BENEFITS

Section

71-02-04-01 Retirement Benefits - Application

71-02-04-02 Special Retirement Options - Application

71-02-04-02.1 Application Processing

71-02-04-03 Payment Date - Retirement Benefits

71-02-04-03.1 Payment Date - Retirement Benefits for Late Retirees

71-02-04-04 Optional Benefits

71-02-04-05 Designation of Beneficiary

71-02-04-06 Lack of a Designated Beneficiary [Repealed]

71-02-04-07 Amount of Early Retirement Benefit

71-02-04-08 Assignment or Alienation of Plan Benefits [Repealed]

71-02-04-09 Dual Membership - Receipt of Retirement Benefits While Contributing to the Teachers' Fund for Retirement, the Highway Patrolmen's Retirement System, or the Teachers' Insurance and Annuity Association of America-College Retirement Equities Fund

71-02-04-09.1 Dual Membership Limitations

71-02-04-10 Erroneous Payment of Benefits - Overpayments

71-02-04-11 Erroneous Payment of Benefits - Underpayments

71-02-04-12 Erroneous Payment of Benefits - Appeals

71-02-04-13 Reduced Benefit Option

71-02-04-03.1. Payment date - Retirement benefits for late retirees.

Except for retirement options provided in sections 71-02-04-02 and 71-02-04-03, for members who are terminated and older than the age at which they reach their normal retirement date, but who have delayed or inadvertently failed to apply for retirement benefits, the regular accrued annuity benefits will commence with a lump sum equal to the amount of missed payments, without interest, retroactive to their normal retirement date unless the deferred normal retirement option is elected or otherwise approved by the North Dakota public employees retirement system board. There will be no retroactive payment for the retiree health insurance credit program.

History: Effective April 1, 2002; amended effective July 1, 2006.

General Authority: NDCC 54-52-04, 54-52-17

Law Implemented: NDCC 54-52-17

- **71-02-04-04. Optional benefits.** A member may elect, as provided in section 71-02-04-02, to receive one of the following optional benefits in lieu of the regular single life retirement benefit.
- 1. One hundred percent joint and survivor benefit. A member shall receive an actuarially reduced retirement benefit during the member's lifetime and after the member's death the same amount will be continued to the member's surviving spouse during the spouse's lifetime. The designated beneficiary is limited to the member's spouse. Payments of benefits to a member's surviving spouse shall be made on the first day of each month commencing on the first day of the month following the member's death, providing the beneficiary has supplied a marriage certificate and death certificate and is still living. Benefits shall terminate in the month in which the death of the beneficiary occurs. In the event the designated beneficiary predeceases the member, or in the event of divorce, the option shall be canceled and the member's benefit shall be returned to the single life amount. Payment of the single life amount shall commence on the first day of the month following the spouse's death providing written notification of death and a death certificate has been submitted or in the event of divorce, a photocopy of the divorce decree.
- 2. **Fifty percent joint and survivor benefit.** A member shall receive an actuarially reduced retirement benefit during the member's lifetime and after the member's death one-half the rate of the reduced benefit will be continued to the member's surviving spouse during the spouse's lifetime. The designated beneficiary is limited to the member's spouse. Payments of benefits to a member's surviving spouse shall be made on the first day of each month commencing on the first day of the month following the member's death, providing the beneficiary has supplied a marriage certificate and death certificate and is still living. Benefits shall terminate in the month in which the death of the beneficiary occurs. In the event the designated beneficiary predeceases the member, or in the event of divorce, the option shall be canceled and the member's benefit shall be returned to the single life amount. Payment of the single life amount shall commence on the first day of the month following the spouse's death providing written notification of death and a death certificate has been submitted or in the event of divorce, a photocopy of the divorce decree.
- 3. **Level social security option.** A member who retires prior to receiving social security benefits may elect the level social security option. Under this option, the member's monthly benefit is adjusted so the combined benefits received from the fund and social security remain level before, and after, the date social security benefits begin. The adjusted benefit payable from the fund must be determined on an actuarial equivalent based on an age no earlier than sixty-two and no later than full retirement age as specified by the social security administration as chosen in writing by the member.

A member is not eligible for the level social security option if it results in a benefit payment of less than one hundred dollars per month.

A member shall submit an estimated benefit from social security that was computed no more than six months before commencement of retirement benefits.

- 4. **Twenty-year or ten-year certain option.** A member may elect an option which is the actuarial equivalent of the member's normal, early, or deferred vested retirement pension payable for life with a twenty-year or ten-year certain feature, as designated by the member.
- 5. **Partial lump sum option.** The partial lump sum option will only be available to members who retire on or after reaching normal retirement date. This option is an irrevocable election and made at initial application for retirement. The payment is equal to twelve monthly payments determined under the single life annuity option. The member is permitted to choose one of the optional forms of payment, excluding the level social security income option, for ongoing benefits. The ongoing benefits will be actuarially reduced to reflect the partial lump sum payment.
- 6. **Deferred normal retirement option.** The deferred normal retirement option will only be available to members who retire after reaching normal retirement date. This option is an irrevocable election and made at initial application for retirement. The payment is in lieu of a lump sum equal to the amount of missed payments, without interest, retroactive to the member's normal retirement date. The ongoing benefits will be actuarially increased to reflect the lump sum.

History: Amended effective September 1, 1982; November 1, 1990; July 1, 1994; May

1, 2004; July 1, 2006.

General Authority: NDCC 54-52-04, 54-52-17

Law Implemented: NDCC 54-52-17

71-02-04-10. Erroneous payment of benefits - Overpayments.

- 1. An "overpayment" means a payment of money by the public employees retirement system that results in a person receiving a higher payment than the person is entitled to under the provision of the retirement plan of membership.
- 2. A person who receives an overpayment is liable to refund those payments upon receiving a written explanation and request for the amount to be refunded. All overpayments must be collected using the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with like gains. If the cost of recovering the amount of the overpayment is estimated to exceed the overpayment, the repayment is considered to be unrecoverable.
- 3. If the overpayment of benefits was not the result of any wrongdoing, negligence, misrepresentation, or omission by the recipient, the recipient may make repayment arrangements subject to the executive director's approval within sixty days of the written request for refund with the minimum repayment amount no less than fifty dollars a month with the total repayment period not to exceed 36 months. If repayment

arrangements are not in place within sixty days of the date of the written notice of overpayment, the executive director shall offset the amount of the overpayment from the amount of future retirement benefit payments so that the actuarial equivalent of the overpayment is spread over the individual's benefit payment period.

- 4. If the overpayment of benefits was the result, in whole or in part, of the wrongdoing, negligence, misrepresentation, or omission of the recipient, the recipient is liable to pay interest charges at the rate of six percent on the outstanding balance, from the time the erroneous benefit was paid through the time it has been refunded in full, plus applicable interest. The recipient may make repayment arrangements, subject to the executive director's approval, within sixty days of the written request for refund with the minimum repayment amount no less than fifty dollars a month with the total repayment period not to exceed thirty-six months. If repayment arrangements are not in place within sixty days of the date of the written notice of overpayment, the executive director shall offset the amount of the overpayment from the amount of future retirement benefit payments so that the actuarial equivalent of the overpayment is spread over the individual's benefit payment period.
- 5. If an individual dies prior to fully refunding an erroneous overpayment of benefits, the public employees retirement system must make application to the estate of the deceased to recover the remaining balance.

History: Effective June 1, 1996; amended effective April 1, 2002; July 1, 2006.

General Authority: NDCC 54-52-04, 54-52-17 **Law Implemented:** NDCC 39-03.1-25, 54-52-17

71-02-04-11. Erroneous payment of benefits - Underpayments.

- 1. An "underpayment" means a payment of money by the public employees retirement system that results in a person receiving a lower payment than the person is entitled to under the provisions of the retirement plan of membership.
- 2. If an underpayment occurs, the amount of the lump sum payment must be paid within sixty days of the discovery of the error, with interest at the rate of six percent from the time underpayment occurred.
- 3. If the underpayment of benefits was not the result of any wrongdoing, negligence, misrepresentation, or omission by the employer or recipient, the underpayment of benefits is to include interest at the rate of six percent from the time the underpayment occurred.
- 4. If the underpayment of benefits was the result, in whole or in part, of the wrongdoing, negligence, misrepresentation, or omission of the employer or recipient, the underpayment of benefits will not include interest.

<u>5. If an individual dies prior to receiving the underpayment of benefits, the public employees retirement system must pay the designated beneficiary on record, or in the absence of a designation of beneficiary, to the estate.</u>

History: Effective June 1, 1996; amended effective May 1, 2004.

General Authority: NDCC 54-52-04, 54-52-17 **Law Implemented:** NDCC 39-03.1-25, 54-52-17

CHAPTER 71-02-05 DISABILITY

Section

71-02-05-01 Eligibility [Repealed]

71-02-05-02 Commencement of Benefit [Repealed]

71-02-05-03 Cancellation of Disability Benefit

71-02-05-04 Calculation of Disability Benefit [Repealed]

71-02-05-05 Conditions for Changing to a Disability Retirement Benefit From an Early

Reduced Retirement Benefit

71-02-05-06 Determination of Disability - Procedures

71-02-05-07 Optional Benefits

71-02-05-07.1 Judges' Retirement Plan Optional Benefits

71-02-05-08 Transitional Period

71-02-05-09 Interest Accrual on Accumulated Contributions for Disabled Annuitants

71-02-05-07. Optional benefits. For the main system and national guard or law enforcement retirement plans, an individual deemed eligible for a disability benefit may elect, as provided in this section, to receive one of the following optional benefits in lieu of the regular disability benefit. Under no circumstances is an option available if the calculation of the optional benefit to which the member is entitled results in an amount which is less than one hundred dollars.

1. One hundred percent joint and survivor benefit. A member shall receive an actuarially reduced disability retirement benefit as long as the member remains eligible for benefits under subdivision e of subsection 3 of North Dakota Century Code section 54-52-17 and after the member's death the same amount will be continued to the member's surviving spouse during the spouse's lifetime. The designated beneficiary is limited to the member's spouse. Payments of benefits to a member's surviving spouse must be made on the first day of each month commencing on the first day of the month following the member's death, provided the beneficiary is still living and has supplied a marriage certificate and the member's death certificate. Benefits terminate in the month in which the death of the beneficiary occurs. In the event the designated beneficiary predeceases the member, or in the event of divorce, the option must be canceled and the member's benefit must be returned to the single life amount. Payment of the single life amount must commence on the first day of the month following the spouse's death providing written notification of death and a death certificate has been submitted or in the event of divorce, a photocopy of the divorce decree.

- 2. **Fifty percent joint and survivor benefit.** A member shall receive an actuarially reduced disability retirement benefit as long as the member remains eligible for benefits under subdivision e of subsection 3 of North Dakota Century Code section 54-52-17 and after the member's death one-half the rate of the reduced benefit will be continued to the member's surviving spouse during the spouse's lifetime. The designated beneficiary is limited to the member's spouse. Payments of benefits to a member's surviving spouse must be made on the first day of each month commencing on the first day of the month following the member's death, providing the beneficiary has supplied a marriage certificate and death certificate and is still living. Benefits terminate in the month in which the death of the beneficiary occurs. In the event the designated beneficiary predeceases the member, or in the event of divorce, the option must be canceled and the member's benefit must be returned to the single life amount. Payment of the single life amount must commence on the first day of the month following the spouse's death providing written notification of death and a death certificate has been submitted or in the event of divorce, a photocopy of the divorce decree.
- 3. **Twenty-year or ten-year certain option.** A member may elect an option which is the actuarial equivalent of the member's normal, early, or deferred vested retirement pension payable for life with a twenty-year or ten-year certain feature, as designated by the member.

History: Effective January 1, 1992; amended effective July 1, 1994; May 1, 2004; July

1, 2006.

General Authority: NDCC 54-52-04 **Law Implemented:** NDCC 54-52-17

71-02-05-07.1. Judges' retirement plan optional benefits. For the judges' retirement plan, an individual deemed eligible for a disability benefit may elect, as provided in this section, to receive one of the following optional benefits in lieu of the regular disability benefit. Under no circumstances is an option available if the calculation of the optional benefit to which the member is entitled results in an amount which is less than one hundred dollars.

1. One hundred percent joint survivor benefit. A member shall receive an actuarially reduced disability retirement benefit as long as the member remains eligible for benefits under subdivision e of subsection 3 of North Dakota Century Code section 54-52-17 and after the member's death the same amount will be continued to the member's surviving spouse during the spouse's lifetime. The designated beneficiary is limited to the member's spouse. Payments of benefits to a member's surviving spouse must be made on the first day of each month commencing on the first day of the month following the member's death, provided the beneficiary is still living and has supplied a marriage certificate and the member's death certificate. Benefits terminate in the month in which the death of the beneficiary occurs. In the event the designated beneficiary predeceases the member, or in the event of divorce, the option must be canceled and the member's benefit must be returned to the single life amount. Payment of the single

life <u>normal retirement</u> amount must commence on the first day of the month following the spouse's death providing written notification of death and a death certificate has been submitted or in the event of divorce, a photocopy of the divorce decree.

2. **Twenty-year or ten-year certain option.** A member may elect an option which is the actuarial equivalent of the member's normal, early, or deferred vested retirement pension payable for life with a twenty-year or ten-year certain feature, as designated by the member.

History: Effective May 1, 2004; amended effective July 1, 2006.

General Authority: NDCC 54-52-04 **Law Implemented:** NDCC 54-52-17

CHAPTER 71-02-06 CONTRIBUTIONS

Section

71-02-06-01 Conditions for Return

71-02-06-02 Effect of Return

71-02-06-03 Inapplicability of Return of Contribution Guarantee [Repealed]

71-02-06-04 Adjustment for Bonuses, Profit Sharing, and Contributions Paid in a Month Other Than Month Earned

71-02-06-05 Basis for Calculating Contribution - Salary Reduction - Salary Deferral Arrangements

71-02-06-06 Employer Payment of Employee Contributions

71-02-06-07 Employer Contribution - National Guard/Law Enforcement

71-02-06-08 Retirement Contributions for Individuals Working Less Than a Forty-Hour Workweek

71-02-06-09 Individual Employee Incentive Payments

71-02-06-04. Adjustment for bonuses, profit sharing, and contributions paid in a month other than month earned. Adjustments for the following must be made for all members:

- 1. Participating employers shall report bonuses or profit-sharing amounts paid when remitting the contribution associated with the bonus. Recruitment and retention bonuses under North Dakota Century Code section 54-06-31 are not eligible for consideration as salary and no contributions associated with those types of bonuses shall be submitted.
- 2. Bonuses or profit-sharing amounts paid by a participating employer other than pursuant to North Dakota Century Code section 54-06-31 will be <u>retroactively</u> prorated equally to theas actual compensation paid over the term of the intended bonus or profit-sharing period. Bonuses or profit-sharing amounts may not be submitted to the public employees retirement system for future months.
- 3. Upon receiving notice, contributions received in a month other than the month earned will be assigned to the appropriate month.

History: Effective June 1, 1993; amended effective June 1, 1996; July 1, 1998;

July 1, 2000; April 1, 2002.

General Authority: NDCC 54-52-04

Law Implemented: NDCC 54-52-05, 54-52-06

ARTICLE 71-03 UNIFORM GROUP INSURANCE PROGRAM

Chapter

71-03-01 Bid Process

71-03-02 Health Maintenance Organization Coverage [Repealed]

71-03-03 Employee Responsibilities

71-03-04 Employer Responsibilities

71-03-05 Board Responsibilities

71-03-06 Participation of Political Subdivisions Employee Responsibilities

71-03-07 Participation of Political Subdivisions Employer Responsibilities

CHAPTER 71-03-01 BID PROCESS

Section

71-03-01-01 Bid Contracts

71-03-01-02 Bid Specifications

71-03-01-03 Bid Deadlines

71-03-01-04 Bid Letting

71-03-01-01. Bid contracts. Contracts for the uniform group insurance programs must be awarded through a competitive bidding process. In order to ensure uniformity, the board will utilize services of the actuarial consultant to formulate bid specifications.

History: Effective October 1, 1986. General Authority: NDCC 54-52.1-08 Law Implemented: NDCC 54-52.1-04

71-03-01-02. Bid specifications. Bid solicitations will be for:

- 1. Life insurance.
- 2. Hospital and medical coverages fully insured contract.
- 3. Individual and aggregate stop-loss insurance.
- 4. Administrative services only.
- 5. Third-party administrators.
- 6. Dental insurance.
- 7. Vision insurance.
- 8. Long-term care insurance.
- 9. Retired medicare-eligible employee group prescription drug coverage.

CHAPTER 71-03-05 BOARD RESPONSIBILITIES

Section

71-03-05-01 Premium Billing

71-03-05-02 Retiree Billing

71-03-05-03 Late Premium for Retirees

71-03-05-04 Late Premium for Terminated Employees

71-03-05-05 Appeal Process

71-03-05-06 Recovery of Benefit Payments

71-03-05-07 Erroneous Payment of Premiums - Overpayments

71-03-05-08 Erroneous Payment of Premiums - Underpayments

71-03-05-09 Erroneous Payment of Premiums - Appeals

71-03-05-10 Determining Amount of Premium Overpayments and Underpayments

71-03-05-11 Failure to Provide Notification and Errors

71-03-05-02. Retiree billing. Retirees receiving a monthly retirement benefit from the board in a sufficient amount to pay premium will have the total monthly premium deducted from their benefit check. Retirees not paying a premium from their benefit check will receive a monthly billing. The billing will be mailed on or about the twenty-fifth of the month preceding the month of coverage. Premium is due no later than the fifteenth of the month for which coverage is intended.

History: Effective October 1, 1986; amended effective November 1, 1990.

General Authority: NDCC 54-52.1-08 **Law Implemented:** NDCC 54-52.1-03

71-03-05-03. Late premium for retirees. If the premium is not received by the due date, coverage will be canceled and a notice will be sent by certified mail. The notice advises the retiree that payment in full must be received within ninety days from the due date to reinstate coverage retroactively to the day of the month following the last month for which payment was received.

History: Effective October 1, 1986; amended effective November 1, 1990; May 1,

2004.

General Authority: NDCC 54-52.1-08 **Law Implemented:** NDCC 54-52.1-03

71-03-05-08. Erroneous payment of premiums - Underpayments.

- 1. An "underpayment" means a payment of money to the public employees retirement system for group insurance premiums that is less than the premiums due for the level of coverage that should have been in effect. <u>Underpayment of premium is solely an error in the amount of premium billed to the individual.</u>
- 2. An individual who underpays premiums is liable to pay those premiums upon receiving a request for repayment and an explanation of the amount due from the

executive director. All underpayments must be collected using the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with like gains. If the cost of recovering the underpayment is estimated to exceed the amount of the underpayment, the underpayment is considered to be unrecoverable.

- 3. If an underpayment is discovered in the first month it occurs, the individual must pay the amount due in a lump sum within thirty days of the discovery of the error.
- 4. If an underpayment is not discovered within the first month it occurs, the following will apply:
- a. If not the result of any wrongdoing, negligence, misrepresentation, or omission by the individual, then the individual must make arrangements within sixty days of receiving written notification to either pay by lump sum or installments. The installment payment schedule is subject to approval by the executive director with the minimum repayment amount no less than fifty dollars a month with the total repayment period not to exceed thirty-six months. If repayment arrangements are not in place within sixty days of the date of the written request for repayment, the executive director shall authorize payment to be made in three equal installments, using the same payment method the individual has authorized for paying current monthly premiums.
- b. If underpayment is the result, in whole or in part, of the wrongdoing, negligence, misrepresentation, or omission of the individual, underpayments must be made in full within sixty days of written notification.
- 5. If the individual dies prior to paying in full, then the public employees retirement system must make application to the estate of the deceased to recover the remaining balance. If an underpayment occurs and the individual no longer participates in the group insurance, any premium amounts due are immediately payable.
- 6. If the individual dies prior to paying in full, then the public employees retirement system must make application to the estate of the deceased to recover the remaining balance.
- 7. If the individual refuses to repay the underpayment, or the underpayment is not paid in full, coverage will be canceled retroactive to the first day of the month following the month for which full premium payment was received. ‡The public employees retirement system will provide written notice advising the individual that payment in full must be received notify the individual in writing that payment of claims will be suspended until payment is received in full. Coverage will be canceled if repayment is not made within thirty days of the written notification—to reinstate coverage retroactively to the date that coverage was canceled.

History: Effective April 1, 2002.

General Authority: NDCC 54-52.1-08 **Law Implemented:** NDCC 54-52.1-08

71-03-05-10. Determining amount of premium overpayments and underpayments.

- 1. The amount of the health premium overpayment or underpayment will be determined by calculating the difference between the premium that was paid and the premium that should have been paid, retroactively to the month the change in premium should have occurred, or July of the earliest contract period still open, whichever is more recent.
- 2. The amount of the life premium overpayment or underpayment will be determined by calculating the difference between the premium that was paid and the premium that should have been paid, retroactively to the month the change in premium should have occurred.
- 3. The amount of the dental premium overpayment or underpayment will be determined by calculating the difference between the premium that was paid and the premium that should have been paid, retroactively to the month the change in premium should have occurred.
- 4. The amount of the vision premium overpayment or underpayment will be determined by calculating the difference between the premium that was paid and the premium that should have been paid, retroactively to the month the change in premium should have occurred.

History: Effective April 1, 2002.

General Authority: NDCC 54-52.1-08 **Law Implemented:** NDCC 54-52.1-08

CHAPTER 71-03-07 PARTICIPATION OF POLITICAL SUBDIVISIONS EMPLOYER RESPONSIBILITIES

Section

71-03-07-01 Employer Contribution

71-03-07-02 Information to Employee

71-03-07-03 Collecting Employee Contributions

71-03-07-04 Termination of Employment

71-03-07-05 Premium for Basic Term Life Insurance

71-03-07-06 Requirements for Enrolling Temporary Employees and Paid Members of

Political Subdivision Boards, Commissions, or Associations

71-03-07-07 Minimum Requirements for Political Subdivisions

71-03-07-06. Requirements for enrolling temporary employees and paid members of political subdivision boards, commissions, or associations.

Each employer shall inform temporary employees and the paid members of its board, commission, or association of their right to the group insurance plan and the process necessary to enroll. Each employer shall provide each eligible member such forms as necessary to enroll in the group insurance plan. Each employer shall collect any

member contribution due and submit it along with any employer contribution to the retirement board each month. The minimum employer contribution will be determined by the retirement board. The political subdivision may not make a contribution for coverage for temporary employees. Each employer shall notify the retirement board when an eligible member is no longer eligible for the group insurance plan. The retirement board shall inform such member of options available for continuation of coverage.

History: Effective June 1, 1996; amended effective May 1, 2004.

General Authority: NDCC 54-52-04, 54-52.1-03.1

Law Implemented: NDCC 54-52.1-02, 54-52.1-03, 54-52.1-03.1

CHAPTER 71-05-02 DISABILITY

Section

71-05-02-01 Disability Retirement Eligibility

71-05-02-01.1 Conditions for Changing to a Disability Retirement Benefit From an Early Reduced Retirement Benefit

71-05-02-02 Determination of Disability - Procedures

71-05-02-03 Aggrieved Parties' Rights [Repealed]

71-05-02-04 Optional Benefits

71-05-02-05 Interest Accrued on Accumulated Contributions for Disabled Annuitants

71-05-02-06 Cancellation of Disability Benefit

71-05-02-04. Optional benefits. An individual deemed eligible for a disability benefit may elect, as provided in this section, to receive one of the following optional benefits in lieu of the regular disability benefit. These options are not available if the calculation of the optional benefit to which the member is entitled would result in an amount that is less than one hundred dollars.

1. One hundred percent joint and survivor benefit. A member shall receive an actuarially reduced disability retirement benefit as long as the member remains eligible for benefits under subdivision d of subsection 3 of North Dakota Century Code section 39-03.1-11 and after the member's death the same amount will be continued to the member's surviving spouse during the spouse's lifetime. The designated beneficiary is limited to the member's spouse. Payments of benefits to a member's surviving spouse must be made on the first day of each month commencing on the first day of the month following the member's death, provided the beneficiary supplies a marriage certificate and death certificate and is still living. Benefits must terminate in the month in which the death of the beneficiary occurs. If the designated beneficiary predeceases the member. or in the event of divorce, the member's benefit must be returned to the normal retirement amount. Payment of the normal retirement amount must commence on the first day of the month following the spouse's death if written notification of death, provided a death certificate has been submitted or in the event of divorce, a photocopy of the divorce decree. Should the member remarry and wish to change such designation, a new actuarial retirement benefit will be calculated.

2. **Twenty-year or ten-year certain option.** A member may receive the actuarial equivalent of the member's normal, early, or deferred vested retirement pension payable for life with a twenty-year or ten-year certain feature, as designated by the member.

History: Effective July 1, 1998; amended effective May 1, 2004; July 1, 2006.

General Authority: NDCC 39-03.1-06, 39-03.1-11

Law Implemented: NDCC 39-03.1-11.4(d)

CHAPTER 71-05-04 SERVICE CREDIT

Section

71-05-04-01 Service Credit - General Rule

71-05-04-02 Military Credit

71-05-04-03 Repurchase of Service Credit and Purchase of Additional Service Credit

71-05-04-03.1 Purchase of Additional Years of Service [Repealed]

71-05-04-04 Payment

71-05-04-04.1 Costs

71-05-04-05 Delinquent Payment

71-05-04-06 Crediting Purchased or Repurchased Service

71-05-04-07 Cancellation of Credits

71-05-04-08 Conversion of Sick Leave

71-05-04-09 Employer Purchase of Service Credit or Sick Leave Program

71-05-04-08. Conversion of sick leave. To convert unused sick leave to service credit, the member must notify the office, in writing, of the amount of unused sick leave to be converted and the member's employer must confirm the member's unused balance of accumulated sick leave as of the date the member terminates employment. For members transferring from one participating employer to another participating employer without terminating eligible employment, the public employees retirement system will record unused sick leave of a participating member if the new employer certifies that it will not transfer that leave. The certification must include documentation from the previous employer detailing the number of hours of sick leave. The public employees retirement system must receive the certification within sixty days after the member leaves employment with the former employer. One month of service credit must be awarded for each one hundred seventy-three and three-tenths hours of unused accumulated sick leave. The cost to convert unused sick leave into service credit must be paid with after tax employee contributions.

- 1. After tax payments may be accepted from the member as early as six months prior to termination if the following requirements are met:
- a. A notice of termination or application for monthly benefits form is on file with the public employees retirement system.

- b. A written certification by the member's employer, as to the member's unused balance of accumulated sick leave as of the date the member wishes to begin payment, is on file with the public employees retirement system.
- c. At termination, the sick leave conversion payment must be recalculated using the member's unused balance of accumulated sick leave, confirmed by the member's employer, and the member's final average salary as of that date.
- d. If there is a difference between the sick leave conversion payment amount and the amount the member has paid, any overpayment must be refunded to the member and any underpayment must be collected from the member by the fifteenth of the month following the month of member's datewithin sixty days of termination.
- e. The member's record must be updated with the additional service credit once payment is made in full and the member has terminated employment.
- 2. Pretax rollover or transfer payments may be accepted from the member as early as sixty days prior to termination if the following requirements are met:
- a. A notice of termination or application for monthly benefits form is on file with the public employees retirement system.
- b. A written certification by the member's employer, as to the member's projected unused balance of accumulated sick leave no sooner than sixty days prior to the date of termination, is on file with the public employees retirement system. This certification must also include a certification by the employer of the projected salaries to be reported to the public employees retirement system during the final months of employment.
- c. At termination, the sick leave conversion payment must be recalculated using the member's unused balance of accumulated sick leave confirmed by the member's employer, and the member's final average salary as of that date. If there is a difference between the sick leave balance or conversion payment amount and the amount the member has paid, then only the amount of sick leave available as of the termination date will be added to the member's record. The member account balance will be credited with the full amount of funds from the rollover or transfer.
- d. If an underpayment has occurred, then the remaining amount must be collected from the member by the fifteenth of the month following the month of member's datewithin sixty days of termination.
- e. The retiree health credit portion must be paid as a personal after tax payment.

The member's record must be updated with the additional service credit once payment is made and the member has terminated employment.

History: Effective June 1, 1996; amended effective April 1, 2002; May 1, 2004;

July 1, 2006.

General Authority: NDCC 39-03.1-06 **Law Implemented:** NDCC 39-03.1-30

71-05-04-09. Employer purchase of service credit or sick leave program. An employer may elect to purchase up to five years of service credit for an employee and purchase an employee's unused sick leave that meets the requirements of section 71-02-03-08. Before offering a purchase program to its employees the employer must create a program and document the program in writing and submit a copy to the public employees retirement system. The governing authority of the employer shall also submit to the executive director of the public employees retirement system a letter indicating:

- 1. The program meets all the requirements of the North Dakota Century Code.
- 2. The program meets all applicable federal requirements.
- 3. The employer agrees to remit to the public employees retirement system a lump sum payment of the cost of the purchase upon being billed.
- 4. The employer has not given the employee the option of a cash payment in lieu of the employer purchase.
- 5. The employer shall clearly specify who is eligible for the program and indicate if the program is intended to be permanent or will be for a specific time period only.
- 6. The employer agrees that all purchases for service credit will be based upon actuarial cost as determined by the public employees retirement system. The employer also agrees that all purchases will be completed no later than the employee's retirement or sixty days from the date the employer and employee agree to the purchase, whichever comes first.
- 7. The employer agrees that in offering such a program the employer will direct each employee interested in the program to first apply to the employer's authorized agent who will then certify the eligibility of the member, the amount of service credit to be purchased, and send such certification to the public employees retirement system. The employer also agrees that the employer's authorized agent will coordinate the program, authorize all purchases in writing to the public employees retirement system, and be the focal point for communications between the public employees retirement system, the employer, and the employee.
- 8. The employer agrees that for each employee certified to be eligible to have service credit purchased, the employer will first obtain from the employee authorization for the public employees retirement system to share confidential information with the employer.
- The employer certifies that in offering the program, the employer is making it available to all employees or a specified class of employees on a nondiscriminatory basis.
- 10. The employer agrees to provide information and policies pertaining to the employer purchase program pursuant to 39-03.1-28.

When an employer files the above letter with the public employees retirement system, it may offer the program to its employees. An employer may terminate this program at any time upon the governing authority of the employer sending to the executive director of the public employees retirement system a letter indicating when the program is to be canceled.

History: Effective May 1, 2004; amended effective July 1, 2006.

General Authority: NDCC 39-03.1-06 Law Implemented: NDCC 39-03.1-10.2

CHAPTER 71-05-05 NORMAL AND EARLY RETIREMENT BENEFITS

Section

71-05-05-01 Normal and Early Retirement Benefits - Application

71-05-05-02 Special Retirement Options - Application

71-05-03 Payment Date - Regular Early and Normal Retirement Benefits

71-05-03.1 Payment Date - Retirement Benefits for Late Retirees

71-05-05-04 Optional Benefits

71-05-05-05 Designation of Beneficiary

71-05-05-06 Lack of a Designated Beneficiary

71-05-05-07 Amount of Early Retirement Benefit

71-05-05-08 Retirement - Dual Membership

71-05-05-09 Assignment or Alienation of Plan Benefits

71-05-05-10 Erroneous Payment of Benefits - Overpayments

71-05-05-11 Erroneous Payment of Benefits - Underpayments

71-05-05-12 Erroneous Payment of Benefits - Appeals

71-05-03.1 Payment date - Retirement benefits for late retirees.

Except for retirement options provided in sections 71-05-05-02 and 71-05-05-03, for members who are terminated and older than the age at which they reach their normal retirement date, but who have delayed or inadvertently failed to apply for retirement benefits, the regular accrued annuity benefits will commence with a lump sum equal to the amount of missed payments, without interest, retroactive to their normal retirement date unless the deferred normal retirement option is elected or otherwise approved by the North Dakota public employees retirement system board. There will be no retroactive payment for the retiree health insurance credit program.

History: Effective.

General Authority: NDCC 39-03.1-06 Law Implemented: NDCC 39-03.1-11

71-05-04. Optional benefits. A member may elect, as provided in section 71-05-05-02, to receive one of the following optional benefits in lieu of the regular early or normal retirement benefit.

1. One hundred percent joint and survivor benefit. A member may receive an actuarially reduced retirement benefit during the member's lifetime and after the member's death the same amount will be continued to the member's surviving spouse during the spouse's lifetime. The designated beneficiary is limited to the member's spouse. In the event the member's spouse predeceases the member, or in the event of divorce, the option shall be canceled and the member's benefit shall be returned to the normal retirement amount. Payment of the normal retirement amount shall commence on the first day of the month following the spouse's death providing written notification of death and a death certificate has been submitted or in the event of divorce, a photocopy of the divorce decree. Should the member remarry and wish to change such designation, a new actuarial retirement benefit will be calculated.

Payments of benefits to a member's surviving spouse must be made on the first day of each month, commencing on the first day of the month following the member's death, providing the beneficiary has supplied a marriage certificate, death certificate, birth certificate verifying age, and is still living. Benefits must terminate in the month in which the death of the beneficiary occurs.

- 2. **Twenty-year or ten-year term certain.** A member may elect an option which is the actuarial equivalent of the member's normal, early, or deferred vested retirement pension payable for life with a twenty-year or ten-year certain feature, as designated by the member.
- 3. **Partial lump sum option.** The partial lump sum option will only be available to members who retire on or after reaching their normal retirement date. This option is an irrevocable election and made at initial application for retirement. The payment is equal to twelve monthly payments determined under the normal annuity option. The member is permitted to choose one of the optional forms of payment for ongoing benefits. The ongoing benefits will be actuarially reduced to reflect the partial lump sum payment.
- 4. **Deferred normal retirement option.** The deferred normal retirement option will only be available to members who retire after reaching their normal retirement date. This option is an irrevocable election and made at initial application for retirement. The payment is in lieu of a lump sum equal to the amount of missed payments, without interest, retroactive to the member's normal retirement date. The ongoing benefits will be actuarially increased to reflect the lump sum.

History: Effective October 1, 1991; amended effective July 1, 2006.

General Authority: NDCC 39-03.1-06 Law Implemented: NDCC 39-03.1-11

71-05-05-11. Erroneous payment of benefits - Underpayments.

1. An "underpayment" means a payment of money by the public employees retirement system that results in a person receiving a lower payment than the person is entitled to under the provisions of the retirement plan of membership.

- 2. If an underpayment occurs, the amount of the lump sum payment must be paid within sixty days of the discovery of the error, with interest at the rate of six percent from the time underpayment occurred.
- 3. If the underpayment of benefits was not the result of any wrongdoing, negligence, misrepresentation, or omission by the employer or recipient, the underpayment of benefits is to include interest at the rate of six percent from the time the underpayment occurred.
- 4. If the underpayment of benefits was the result, in whole or in part, of the wrongdoing, negligence, misrepresentation, or omission of the employer or recipient, the underpayment of benefits will not include interest.
- 5. If an individual dies prior to receiving the underpayment of benefits, the public employees retirement system must pay the designated beneficiary on record, or in the absence of a designation of beneficiary, to the estate.

History: Effective April 1, 2002; amended effective May 1, 2004.

General Authority: NDCC 39-03.1-06 **Law Implemented:** NDCC 39-03.1-25

ARTICLE 71-06 RETIREE HEALTH INSURANCE CREDIT

Chapter

71-06-01 Retiree Health Insurance Credit

CHAPTER 71-06-01 RETIREE HEALTH INSURANCE CREDIT

Section

71-06-01-01 Eligibility for Retiree Health Insurance Credit Applied to Premiums for Annuitants and Surviving Spouses Under the North Dakota Public Employees Retirement System, the North Dakota Highway Patrolmen's Retirement System, the Retired Judges Under North Dakota Century Code Chapter 27-17, Annuitants of the Job Service Retirement Program, and Former Participating Members of the Defined Contribution Retirement Plan Receiving Periodic Distributions

71-06-01-02 Calculation of Retiree Health Insurance Credit

71-06-01-03 For Individuals Retirees Receiving More Than One Benefit Entitled to Retiree Health Insurance Credit

71-06-01-04 Employer Paid Health Premiums [Repealed]

71-06-01-05 Member Contributions

71-06-01-06 Erroneous Crediting of the Retiree Health Insurance Credit

71-06-01-06.1 Retroactive Payment of the Retiree Health Insurance Credit

71-06-01-07 Optional Benefits

71-06-01-08 Vesting in Retiree Health Credit for Members of the Defined Contribution Retirement Plan

71-06-01-03. For <u>individuals retirees</u> receiving more than one benefit entitled to retiree health insurance credit.

1. If an individual retiree is receiving more than one benefit from the public employees retirement system, or other participating system; one as a surviving spouse, and the other based upon their own service credit, the higher of the two retiree health insurance credits will be applied toward the individual's uniform group health insurance premium. Under no circumstances will these two benefits be combined. If the surviving spouse benefit is the larger of the two benefits, and is limited in duration, the individual will be eligible to utilize his or her own retiree

health insurance credit upon cessation of surviving spouse benefits the retiree may make application with the public employees retirement system to combine retiree health insurance credits.

- 2. If an individual retiree is receiving a public employees retirement system retirement benefit as a surviving spouse and is also an active contributor to either the public employees retirement system, the highway patrol retirement system, the judges retirement system, or the job service retirement program, the individual will not be eligible for retiree health insurance credit until one of the following events occurs:
- a. The <u>individual</u> <u>active contributor</u> terminates employment, at which time they may receive the retiree health insurance credit as any other surviving spouse.
- b. The individual active contributor retires and begins receiving a benefit through an eligible retirement system, at which time they may receive the greater of their own retiree health insurance credit or the credit available as a surviving spouse make application with the public employees retirement system to combine retiree health insurance credits.
- 3. If the <u>individual retiree</u> is <u>was</u> employed by a political subdivision which does not participate in the public employees retirement system health plan, and is drawing a retirement benefit or a surviving spouse benefit, the individual may receive the retiree health insurance credit as any other annuitant based upon a retiree premium.
- 4. If a husband and wife are both participants of a retirement system that provides the retiree health insurance credit, and are both receiving a benefit, the retiree health insurance credit will be applied as follows:
- a. If each individual retiree takes a single health insurance plan under the uniform group health insurance program, each will have their respective retiree health insurance credit applied to their respective premiums.
- b. If only one individual retiree takes a family health plan under the uniform group health insurance program, only that individual will be able to utilize his or her retiree health insurance credit applied to the premiumthey may make application with the public employees retirement system to combine retiree health insurance credits.

- c. In no event will the retiree health insurance credits for both spouses be combined and applied to only one premium.
- 5. Persons with service credit in more than one of the participating systems may combine that credit for retiree health insurance purposes, using the credit earned from the system the member contributed to most recently as primary.
- 6. Retirees are responsible for making application with the public employees retirement system to combine and discontinue combining retiree health insurance credits.

History: Effective April 1, 1992; amended effective June 1, 1996; July 1, 1998.

General Authority: NDCC 54-52.1-03.2(b) **Law Implemented:** NDCC 54-52.1-03.3

- **71-06-01-07. Optional benefits.** A married member may elect to receive one of the following optional retiree health credit benefits in lieu of the retiree health insurance credit option provided in section 71-06-01-01:
- 1. **Fifty percent joint and survivor benefit.** A member shall receive an actuarially reduced retiree health insurance credit during the member's lifetime and after the member's death one-half the rate of the reduced benefit will be continued to the member's surviving spouse during the spouse's lifetime. The designated beneficiary is limited to the member's spouse. Benefits shall terminate in the month in which the death of the beneficiary occurs. If the member's spouse predeceases the member, <u>or in the event of divorce</u>, the member's benefit must be returned to the standard option amount. The standard option amount must commence on the first day of the month following the spouse's death if a death certificate has been submitted <u>or in the event of divorce</u>, a photocopy of the divorce decree.
- 2. One hundred percent joint and survivor benefit. A member shall receive an actuarially reduced retiree health insurance credit during the member's lifetime and after the member's death the same amount will be continued to the member's surviving spouse during the spouse's lifetime. The designated beneficiary is limited to the member's spouse. Benefits shall terminate in the month in which the death of the beneficiary occurs. If the member's spouse predeceases the member, or in the event of divorce, the member's benefit must be returned to the standard option amount. The standard option amount shall commence on the first day of the month following the spouse's death providing written notification of the death and a death certificate has been submitted or in the event of divorce, a photocopy of the divorce decree.

History: Effective July 1, 1998.

General Authority: NDCC 54-52.1-03.2(b) **Law Implemented:** NDCC 54-52.1-03.3

CHAPTER 71-08-07 ADDITIONAL CONTRIBUTIONS

Section
71-08-07-01 Additional Employee

71-08-07-01 Additional Employer Contributions 71-08-07-02 Eligible Sick Leave

71-08-04-09. Employer purchase of service credit or sick leave program. An employer may elect to purchase up to five years of service credit for an employee and purchase an employee's unused sick leave that meets the requirements of section 71-02-03-08. Before offering a purchase program to its employees the employer must create a program and document the program in writing and submit a copy to the public employees retirement system. The governing authority of the employer shall also submit to the executive director of the public employees retirement system a letter indicating:

- 1. The program meets all the requirements of the North Dakota Century Code.
- 2. The program meets all applicable federal requirements.
- 3. The employer agrees to remit to the public employees retirement system a lump sum payment of the cost of the purchase upon being billed.
- 4. The employer has not given the employee the option of a cash payment in lieu of the employer purchase.
- 5. The employer shall clearly specify who is eligible for the program and indicate if the program is intended to be permanent or will be for a specific time period only.
- 6. The employer agrees that all purchases for service credit will be based upon actuarial cost as determined by the public employees retirement system. The employer also agrees that all purchases will be completed no later than the employee's retirement or sixty days from the date the employer and employee agree to the purchase, whichever comes first.
- 7. The employer agrees that in offering such a program the employer will direct each employee interested in the program to first apply to the employer's authorized agent who will then certify the eligibility of the member, the amount of service credit to be purchased, and send such certification to the public employees retirement system. The employer also agrees that the employer's authorized agent will coordinate the program, authorize all purchases in writing to the public employees retirement system, and be the focal point for communications between the public employees retirement system, the employer, and the employee.
- 8. The employer agrees that for each employee certified to be eligible to have service credit purchased, the employer will first obtain from the employee authorization for the public employees retirement system to share confidential information with the employer.
- 9. The employer certifies that in offering the program, the employer is making it available to all employees or a specified class of employees on a nondiscriminatory basis.

10. The employer agrees to provide information and policies pertaining to the employer purchase program pursuant to NDCC 54-52-26.

When an employer files the above letter with the public employees retirement system, it may offer the program to its employees. An employer may terminate this program at any time upon the governing authority of the employer sending to the executive director of the public employees retirement system a letter indicating when the program is to be canceled.

History: Effective May 1, 2004; amended effective July 1, 2006.

General Authority: NDCC 39-03.1-06 Law Implemented: NDCC 39-03.1-10.2

Small Entity Regulatory Analysis

- 1. Was establishment of less stringent compliance or reporting requirements for small entities considered? No
 - **To what result?** The proposed rules do not require any new reporting requirements nor do they add any additional compliance responsibility to any of our existing employers.
- 2. Was establishment of less stringent schedules or deadlines for compliance or reporting requirements considered for small entities? No To what result? The proposed rules do not require any new reporting requirements nor do they add any additional compliance responsibility to any of our existing employers.
- 3. Was consolidation or simplification of compliance or reporting requirements for small entities considered? No

 To what result? The proposed rules do not require any new reporting requirements nor do they add any additional compliance responsibility to any of our existing employers.
- 4. Were performance standards established for small entities for replacement design or operational standards required in the proposed rule? No. To what result? There were no replacement design or operational standards required in the proposed rules.
- 5. Was exemption of small entities from all or any part of the requirements in the proposed rule considered? No To what result? As none were required, none were considered.

Small Entity Economic Impact Statement

- 1. Which small entities are subject to the proposed rule? Any participating entity is subject to the proposed rule.
- 2. What are the administrative and other costs required for compliance with the proposed rule? There are no costs for compliance with the proposed rules. The proposed rules provide additional options for employers and include 71-03-07-06, 71-02-03-07, 71-08-04-09, 71-02-06-04.
- What is the probable cost and benefit to private persons and consumers who are affected by the proposed rule? Since the proposed rule changes are optional, there is no specific cost or benefit to private persons or consumers. Specific to employer purchases, if a small entity elects to offer an employer purchase program, then the cost is determined specific to the individual that they are purchasing time for and therefore, the exact cost can not be determined at this time.
- 4. What is the probable effect of the proposed rule on state revenues? Since the proposed rule changes are optional, there is no probable effect or cost on state revenues.
- 5. Is there any less intrusive or less costly alternative methods of achieving the purpose of the proposed rule? None were identified at this time.



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Memorandum

TO: NDPERS Board

FROM: Election Committee:

Howard Sage - Chair

Joan Ehrhardt Ron Leingang

DATE: September 12, 2007

SUBJECT: Election Rules 71-01-02

Summary of Proposed Changes

Following is a summary of the changes to the election rules as proposed by the election committee. Also included is supporting documentation provided by Aaron Webb which the committee referenced in developing its proposed recommendations.

71-01-02-02(1). Eligible voters

Discussed defined contribution members' eligibility. Currently under the definition of North Dakota Public Employees Retirement System, defined contribution members are ineligible to vote, be a candidate or sign a petition. Aaron drafted language that would address this and thereby allow members of the defined contribution plan to vote and become an active candidate for election to the board. The committee approved incorporating the language into the rules.

71-01-02-03. Candidate eligibility

The language under #1 excludes members of the defined contribution plan as eligible to run as a candidate for an active position on the board. Aaron drafted language that would address this and thereby allow members of the defined contribution plan to vote and run for an active position on the board.

In #2 changed date from July 1 to April 15th because election occurs in June.

Currently deferred vested members are allowed to become a candidate for the retiree member to the board. The committee reviewed the implications of continuing to allow this eligibility. Aaron indicated that it will require a statutory change. The committee will address through legislation for the next session.

NDPERS Board Election Rules September 12, 2007 Page 2

71-01-02-04. Election notification

Section will be amended to provide additional methods for communication of the board vacancy and election process.

71-01-02-05(1). Petition format

Deferred vested members are allowed to sign a nomination petition. The committee reviewed the implications of continuing to allow this eligibility. Aaron indicated that it will require a statutory change. The committee will address through legislation for the next session.

71-01-02-06. Procedure for completing and filing petitions

The committee requested that legal counsel draft language to better define the use of the term 'public service' as referenced in #1. Aaron drafted proposed language which the committee adopted.

Under #4 will amend to allow withdrawal one week prior to printing date. In #5 deleted the requirement that the narrative must be signed to be valid. In #6 deleted last sentence. In #7 deleted the 'first class United States mail' provision.

71-01-02-07(5). Election ballots

Deleted "to the North Dakota public employees retirement system" in #2. Deleted "in an order determined by lot" in #3.

Number 5 added to define the board's procedures if there are no candidates.

71-01-02-08. Election

In #1 deferred vested members are not included as eligible to receive a ballot to vote for a candidate for the retiree vacancy. Aaron indicated that it will require a statutory change. The committee will address through legislation for the next session.

71-01-02-09. Canvassing rules

In #7 deleted the 'roll of two dice' tiebreaker requirement and insert coin toss.

71-01-02-10. Notification of election results

#2 and #3 delete requirement the notification must be 'by mailing a copy of the' and by 'first-class United States mail'.



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August 9, 2007

Public Employees Retirement System

Dear Board Members,

While attending the Election Committee meeting of July 24, 2007, I was asked to research a few issues relating to North Dakota Administrative Rules. I have the following comments relating to those issues.

The first issue related to whether members of the Defined Contribution Plan are entitled to vote or run for election to an active member vacancy on the PERS board. The administrative rules provide that employees who participate in the North Dakota Public Employees Retirement System are eligible to vote or run for election to an active member vacancy on the PERS board (N.D.A.C. § 71-01-02-02(1) and N.D.A.C. § 71-01-02-03(1)). The question becomes "Which employees participate in the North Dakota public employees retirement system?"

I have found that North Dakota law treats the terms "Public Employees Retirement System" and "Defined Contribution Retirement Plan" as mutually exclusive terms. The Public Employees Retirement System means the retirement program established under N.D.C.C. ch. 54-52 (see N.D.C.C. § 54-52-01(15)). Another name for the Public Employees Retirement System is the Defined Benefit Plan. The Defined Contribution established under N.D.C.C. § 54-52.6 (see Plan Retirement is § 54-52.6-01(6)). N.D.C.C. § 54-52.6-02(1) provides that if a member elects to join the Defined Contribution Retirement Plan they are choosing to terminate membership in the Public Employees Retirement System. Based on this finding, members of the defined contribution plan would not be entitled to vote or run for election to an active member vacancy on the PERS board.

Upon reviewing the statutes (which take precedence over the rules), it becomes clear that members of the Defined Contribution Plan are <u>not</u> (1) eligible to run for election to the PERS board or (2) eligible to vote for a candidate who is running for election to the board. N.D.C.C. § 54-52-03(4) provides "Three board members must be elected **by and from among the active participating members.**" Under N.D.C.C. § 54-52-01(10) "Participating Members" are defined as "...all eligible employees who through payment into the plan have established a claims against the plan." Subsection 4 of the same statute provides in part "Eligible employee does <u>not</u> include nonclassified state

Public Employees Retirement System August 9, 2007 Page 2

employees who elect to become members of the retirement plan established under chapter 54-52.6...." Therefore, since state employees who elect to become members of the Defined Contribution Plan are not **eligible employees**, and therefore not **participating members**, they are not eligible to vote or run for PERS board positions. Thus, the terms of the Administrative Rules are in line with the law as provided under Title 54.

If it is the wish of the board to make employees in the Defined Contribution Plan eligible to vote and run for active vacancies on the PERS board, it would be necessary to first change the North Dakota statutes to allow for such action. At that point, the administrative rules would need to be changed. In order to allow such persons to vote, the language under the rules could be changed to provide "All active employees of the state of North Dakota and political subdivisions which participate in one of the plans administered by the Public Employees Retirement Board are eligible..."

The second issue related to the term "active employees" as used in the rules relating to eligibility. Specifically, I was asked to determine whether deferred vested members were included in this class. Although the term "active employees" is not defined under the PERS statutes or rules, the plain meaning of the term would seem to exclude deferred vested members who have terminated their employment. This would mean that deferred members would not be eligible to vote or run for an active member vacancy. This term could be defined under the rules.

The third issue related to election rights of person eligible to receive deferred vested retirement benefits. It was my understanding that the committee wanted to know whether they could amend the administrative rules to include these deferred vested employees in the member class that is eligible to vote for a retiree member vacancy (N.D.A.C. § 71-01-02-02(2)), but not in the member class that is eligible to become a candidate for the position on the board as a retiree member representative (N.D.A.C. § 71-01-02-03(2)). As written, the administrative rules allow a person who is eligible to receive deferred vested retirement benefits to both vote and run for election to the retiree position on the PERS board. The issue becomes whether a person who is eligible to receive deferred vested retirement benefits has a right to be a candidate for election to the board. N.D.C.C. § 54-52-03(5) provides: "One board member must be elected by and from among those person who are receiving retirement benefits or who are eligible to receive deferred vested retirement benefits under this chapter." Through this section, the Legislature has given a person eligible to receive deferred vested retirement benefits the right to run as a candidate for the retiree position on the board. Therefore, if the board wants to accomplish the above referenced result, they would need to introduce legislation and would not be able to do so through the administrative rule process.

Public Employees Retirement System August 9, 2007 Page 3

The fourth issue related to use of the term "public service" in N.D.A.C. § 71-01-02-06(1). I was asked to determine whether there was a better way of excluding the usage of state time. I have the following suggestion:

1. No period of time, on which an employee is entitled to receive wages or salary from the state of North Dakota or a political subdivision, may be used by the candidate to promote their election except as permitted by the employing agency. In addition, no public funds may be used for the purpose of promoting an election unless permitted by the employing agency.

Finally, I was asked to determine what the board may do in a situation where there is no candidate for a PERS board election. In order to answer this question, one must review the powers granted to the board under the N.D.C.C. § 54-52-04. This statute states that the board is given the authority to adopt rules necessary to implement the chapter. However, these rules can not be in direct conflict with any statute. N.D.C.C. § 54-52-03 provides "Three board members must be elected by and from among the active participating members." Likewise, N.D.C.C. § 54-52-03(5) states: "One board member must be elected by and from among those persons who are receiving retirement benefits..." Therefore, the board would not be authorized to pick a person to take the vacant position. However, I do not see why the board could not solicit persons from the eligible pool of members to run for the vacant position. Then from those candidates, the active membership could choose their representative. Although I do not think it is necessary to change the rules in order to provide for this process, the following language could be added to N.D.A.C. § 71-01-02-07 to accomplish this purpose:

5. If there is no candidate, the board shall solicit at least two persons from the eligible pool of candidates to run for election to the board. The election will then be conducted in compliance with the provisions of this chapter.

If there are any additional questions, just let me know.

Sincerely,

Aaron K. Webb Assistant Attorney General From: Webb, Aaron K.

Sent: Tuesday, September 04, 2007 4:13 PM

To: Allen, Kathy M.

Subject: election language

Attachments: Webb, Aaron K..vcf

Kathy,

You were looking for language to place into the rules regarding eligibility to vote and run for an active position on the board. I think the following language would work:

71-01-02-02(1) - "All active employees, eligible to serve as elected members of the board in accordance with N.D.C.C. § 54-52-03(4), are eligible to cast one vote for each active member vacancy on the retirement board."

71-01-02-03(1) – "Any active employee, eligible to serve as an elected member of the board in accordance with N.D.C.C. § 54-52-03(4), may become a candidate for election..."

I think this should answer your question about the language. Let me know if you think there is any problem with this language. Call me if you need anything else.

Aaron K. Webb Assistant Attorney General State Capitol 600 E. Blvd. Ave. Dept 125 Bismarck, ND 58505-0040 701 328 3148 701 328 2226 fax awebb@nd.gov



North Dakota Public Employees Retirement System 400 East Broadway, Suite 505 ● Box 1657 Bismarck, North Dakota 58502-1657

Sparb Collins Executive Director (701) 328-3900 1-800-803-7377

FAX: (701) 328-3920 • EMAIL: NDPERS-info@nd.gov • www.nd.gov/ndpers

Memorandum

TO: PERS Board

FROM: Sparb

DATE: September 12, 2007

SUBJECT: BOARD PLANNING MEETING

The Board planning meeting has been scheduled for Monday, December 3, 2007 at the Harold Schafer Leadership Center at the University of Mary. What time would the Board like to start and conclude the meeting?

Also, since we have scheduled this planning meeting and given the holidays, we may want to consider cancelling the Thursday, December 20 meeting.

NDPERS BENEFITS COMMITTEE

September 4, 2007 MINUTES

* - Present

BOARD MEMBERS: Thomas Trenbeath

Arvy Smith

Joan Ehrhardt

STAFF: *Sparb Collins

*Bryan Reinhardt

*Kathy Allen

*Deb Knudsen

*Sharmain Dschaak

INTEREST GROUPS: Tom Tupa, Bill Kalanek - AFPE/NASW

Jodee Buhr, *Gisele Thorson - NDPEA

Gary Rath - NDEA

Howard C. Anderson Jr. - ND Pharmaceutical Association

Agency/Political Sub Representatives:

*Mike Sandal - ND Supreme Court

*Lori Laschkewitsch - OMB

*Glenna Ellison - Attorney General's Office
*Laura Glatt - ND University System (NDUS)

Neil Johnson - ND Highway Patrol

Jon Martinson - ND School Board Association
Terry Traynor - Association of Counties
*Linda Houfek - Dept of Corrections

Mary Schwab - Job Service North Dakota

Jerry Hjelmstad - League of Cities

Ivan Maas*Brenda Schuler*Council of College Faculties*Career & Technical Education

Linda Kuether - Dept of Transportation

Ken Purdy - Human Resource Mgmt

*Lisa Kudelka - Bismarck Public Schools

*Laurie Hammeren - OMB / Human Resource Mgmt

Dean Mattern - Human Services

*Ardy Pfaff - ITD

*Kerry Olson - Health Department *Renae Gall - Burleigh County

*Bob Evans - ND DOT

Others Present:

Minutes

Peace Garden Room

- 2:00 Sparb thanked everyone for coming and started the meeting by going through the PowerPoint handouts. The focus of the meeting was to look at the NDPERS main retirement system (slides 1-75).
- 2:35 The group discussed ideas for retirement legislation (included on slides 73-75).
- 1. Allowing a retiree to designate a subsequent beneficiary. This would be similar to some other plans.
- 2. Allowing over 60 months of generic or 'air time' service to be purchased, but not applying it toward the Rule of 85.
- 3. The removal of the 5 year payment option was looked at because it can have an unexpected tax burden for a member.
 - 4. Providing a J & S benefit to a non-spouse should be looked at further.
 - 5. Providing a normal form of benefit for the Law and Guard systems.
 - 6. Benefit increase for the Oasis retiree.
- 7. Allowing 457 PEP contributions to purchase service credit at the 9.12%. There are many details and rules to work out, but the group thought it could be a tool to help retain employees as well as increase 457 participation.
- 8. Increasing employee contributions to pay for an increase in benefits. There was some discussion on how recruitment is becoming a problem in the public sector.
- 9. Increasing the Rule of 85 to a Rule of 90. This is a similar move made prospectively by the Teacher's system.
- 10. The group discussed an additional idea not on the handouts. The thought was that an employee could purchase an inflation adjustment benefit. The monthly amount would be actuarially reduced depending on the annual inflation increase the member would like to have.
- 11. Along with the inflation benefit the thought of purchasing a higher multiplier was brought up. Would this be similar to a purchase of service and fall under those requirements and rules?

The group decided to further investigate idea #1, 2, 3, 4, 5, 6, 7, & 10.

Sparb asked the group to think about the ideas and if they have any new ones to let NDPERS staff know. The next meeting will be in early October. At that meeting we will go over these ideas again and look at the NDPERS Health Plan and other benefits like the Retiree Health Credit and Life Plan. Bryan will email the group and try to find the best date for the next meeting.

3:40 - Adjourn



North Dakota

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MEMORANDUM

TO:

NDPERS Board

FROM:

Jamie Kinsella, Internal Auditor

DATE:

August 22, 2007

SUBJECT:

May 23, 2007 PERS Audit Committee Minutes

Attached are the approved minutes from the May 23, 2007 meeting. Those who attended the meeting are available to answer any questions you may have.

These minutes may also be viewed on the NDPERS web site at www.nd.gov/ndpers.

The next audit committee meeting is scheduled for November 21, 2007 10:30 a.m., in the NDPERS Conference Room.

Attachment

FlexComp Program

· Employee Health & Life Insurance

Dental

Vision

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- Public Employees

Retirement Programs

- Highway Patrol

- National Guard/Law Enforcement

- Judges

- Prior Service- Job Service

• Retiree Health Insurance Credit

• Deferred Compensation Program

• Long Term Care Program



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<u>MEMORANDUM</u>

TO:

Audit Committee

Jon Strinden Ron Leingang

FROM:

Jamie Kinsella, Internal Auditor

DATE:

May 24, 2007

SUBJECT:

May 23, 2007 Audit Committee Meeting

In Attendance:

Jon Strinden via conference call

Ron Leingang Rebecca Dorwart Jamie Kinsella

Sharon Schiermeister

Leon Heick

Larry Brooks, BCBS, via conference call Kelly Anderson, BCBS, via conference call Dave Arntson, BCBS, via conference all

The meeting was called to order at 10:30 a.m.

l. February 21, 2007 Audit Committee Minutes

The audit committee minutes were examined and approved by the Audit Committee.

II. **Internal Audit Quarterly Report**

- A. Internal Audit Status Update - Included with the audit committee minutes was the Internal Audit quarterly report which listed all of the projects that are in active status.
- B. Quarterly Audit Finding Status Report - As stated in the Audit Policy #103, the Internal Audit Division is to report quarterly to management and the audit committee the status of the audit findings of the external auditors, as well as any found by the internal auditor. The report included recommendations made by Brady Martz during the 2006 fiscal year end audit. Recommendations by Internal Audit are included after the final audit report has been issued to management that includes their responses to the recommendations. A review of the updated report showed that one recommendation is 100% completed, and progress made on five others. The remaining ten recommendations have no change. Discussion followed. Internal audit staff will review recommendations

FlexComp Program

Employee Health & Life Insurance

- Dental

- Public Employees - Highway Patrol
- Judges

· Retirement Programs

- Prior Service
- Retiree Health Insurance Credit
- · Deferred Compensation Program
- Long Term Care Program

Vision

- National Guard/Law Enforcement

- Job Service

with management to determine if the old ones are still applicable, and to reprioritize them. Also, staff will follow up with Brady Martz on external audit recommendations to determine if they should remain.

III. Administrative

- A. <u>Update on Group Insurance Staffing Status</u> Ms. Kinsella provided an update on the Group Insurance staffing status since the last Audit Committee meeting. Discussion followed.
- B. <u>Internal Audit Plan for 2007</u> Ms. Kinsella conveyed because of the time involved in the Group Insurance Division, she had not been able to develop an Internal Audit Plan for 2007. Ms. Kinsella indicated she hoped to have a plan developed by the next Audit Committee meeting in August for the remainder of the calendar year.
- C. <u>Performance Evaluation</u> Mr. Collins informed Ms. Kinsella that the audit committee was reviewing her performance evaluation and that it should be completed soon.
- D. Goals & Objectives Included with the audit committee materials was an updated copy of the internal audit's goals and objectives that was included in the business plans provided at the board meeting. After discussion with other internal audit directors at the APPFA conference, Ms. Kinsella indicated she made a few changes based on their recommendations. These changes were incorporated into the main business plan document.

IV. Miscellaneous

- A. Pharmacy Benefits Manager (PBM) Project Larry Brooks, Consulting Service Manager from Blue Cross Blue Shield (BCBS), Kelly Anderson and Dave Arntson, Internal Auditors from BCBS joined the meeting via conference call. Mr. Brooks reviewed a draft memo to NDPERS outlining the prescription drug rebate process with NDPERS. Ms. Anderson provided input on her audit process. Discussion followed. This item will be on the August agenda to obtain additional information.
- B. <u>Audit Committee Meeting</u> The next Audit Committee meeting will be held on August 22, 2007 at 10:30am in the NDPERS Conference room, Wells Fargo Bank Building.
- C. P<u>ublications</u> A copy of the May 2007 Institute of Internal Auditors Tone at the Top publication was included for information only.
- C. <u>Continuing Professional Education</u> Ms. Kinsella and Mr. Heick, Internal Audit staff, attended a seminar on April 30 and May 1. The seminar's topic was "Using Risk Assessment to Build Individual Audit Programs". This seminar provided 15 continuing professional education credits. Ms. Kinsella also

attended the APPFA Professional Development Conference in Manchester, NH on May 6-9, 2007. This conference provided 17.5 continuing professional education credits.

- D. <u>Brady Martz & Associates</u> Ms. Kinsella conveyed she spoke to Pat Brown from Brady Martz & Associates and he indicated they would be meeting this week to discuss their plan of action. He will get back to Ms. Kinsella once they have a better idea of what they will do. Ms. Kinsella indicated she hoped to have them in the PERS office in June for the preliminary work.
- E. <u>Confidential Meeting Between the Audit Committee and Internal Audit Manager</u>—
 The meeting between the audit committee and the internal audit division is scheduled to take place in February of each year. However, the meeting was not held in February and was rescheduled for the May meeting.

The meeting adjourned at 11:50 a.m.